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VOL I. 800–1492

SELECT DOCUMENTS OF EUROPEAN HISTORY

In Three Volumes. Crown 8vo.

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VOL. II. 1492-1715. Edited by W. F. REDDAWAY, M.A., Fellow of King's College, Cambridge.

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SELECT DOCUMENTS OF EUROPEAN HISTORY
VOL. I. 800-1492

EDITED AND TRANSLATED BY

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GENERAL PREFACE

THIS is intended to be the first of three volumes of selected documents of European history. The second volume will cover the period 1492–1715; and the third the period 1715–1920.

The number, selection and presentation of the documents are governed by the purpose which the editors have in view. It is hoped that the volumes may be of use in schools and colleges as providing illustrations of outline courses on European history, and as some encouragement to young students to go to the sources of history for themselves. They are not intended to be in any degree substitutes for narrative works or for oral teaching on the historical setting and importance of the events with which the documents are concerned. Consequently the introductions and notes are generally confined to such matter as will explain only the immediate circumstances in which the documents were composed or to a small amount of explanation of proper names, technical terms, etc. Since they deal with the outlines of history, the documents are mainly formal documents concerned with the main events and movements of political history, although some illustrations of social developments and political thought are also given. They are presented in English translations, because I am informed that this is a regrettable necessity of the present time.

R. G. D. LAFFAN

PREFACE

WITH regard to this first volume, for which I alone am responsible, I am aware that no two editors would make the same selection. Mine has obvious gaps. To mention some of them, it contains nothing on the history of Spain, little on that of France before the fourteenth century, nothing on the Eastern question after Frederick II's crusade. But considerable omission has been rendered necessary by considerations not only of the size of the volume, but also of the principle that groups of related documents are preferable to a large mass of disconnected material.

The translator of medieval writers is constantly forced to choose between three courses—that of literal, and therefore clumsy and involved, translation, that of free modernization, and that of the happy mean between the former two. I have tried to follow the third alternative and to keep as close to the sense of the original as was compatible with making the translation readable. Nearly all the translations are from Latin sources. In the few remaining cases the language of the original document is indicated. Any insertions of my own in the text are enclosed in square brackets.

References have been given to E. F. Henderson's *Select Historical Documents of the Middle Ages* because the documents contained in that work are there translated in full. Selections from a number of the documents in this volume are also to be found in Professor J. H. Robinson's valuable *Readings in European History*, Vol. I. (Boston, 1904).

I wish to offer my thanks to Miss E. A. S. Dawes for

her permission to reprint a passage (No. 27) from her translation of the *Alexiad* of Anna Comnena. Also to Mr. Z. N. Brooke, of Gonville and Caius College, for his kindness in making suggestions on the selection of documents; and to Dr. A. B. Cook, of my own college, for helping me over several difficulties.

R. G. D. L.

November, 1929

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I

THE DARK AGES

1. THE DONATION OF CONSTANTINE

Although most scholars agree in attributing the origin of this famous document to a date in the latter half of the eighth century, extracts from it are here given because of the great authority attributed to it in the eleventh and subsequent centuries and the large part which it played in medieval controversies. Dante, in his arguments against the Papalists, did not question the authenticity of the Donation, but only sought to refute the Papalist arguments based upon it. Not until the revival of historical criticism in the fifteenth century was the Donation recognized as a forgery. At that time several eminent Churchmen, Cardinal Nicholas of Cusa, Lorenzo Valla and Bishop Reginald Pecocke, showed the fraudulent nature of the document and it gradually became completely discredited.

SOURCE—Text in Haller, p. 241. Translation in Henderson.

IN the name of the holy and undivided Trinity, the Father, the Son and the Holy Spirit. The Emperor Caesar Flavius Constantinus in Christ Jesus (one of the same Holy Trinity, our Saviour, Lord and God), faithful, merciful, mighty, beneficent, Alamannicus, Gothicus, Sarmaticus, Germanicus, Brittanicus, Hunicus, pious, fortunate, victorious, triumphant, ever august, to the most holy and blessed father of fathers, Silvester, of the Roman city Bishop and Pope; and to all his successors, the pontiffs, who shall sit in the chair of blessed Peter to the end of time; as also to all the most reverend and God-beloved catholic bishops, by this our imperial constitution subjected throughout the

world to this same Roman Church, whether they be appointed now or at any future time—Grace, peace, love, joy, long-suffering, mercy from God the Father almighty and Jesus Christ His Son and the Holy Spirit be with you all. . . .[1]

For when a horrible and filthy leprosy invaded all the flesh of my body and I received the attention of many assembled doctors nor could thereby attain to health, there came to me the priests of the Capitol, who said that I ought to erect a font on the Capitol and fill it with the blood of innocent children and that by bathing in it when it was warm I could be healed. According to their advice many innocent children were assembled; but, when the sacrilegious priests of the pagans wished them to be slaughtered and the font filled with their blood, our serenity perceived the tears of their mothers and I thereupon abhorred the misdeed; and, pitying them, we ordered their sons to be restored to them, gave them vehicles and gifts and sent them back rejoicing to their homes. And when that day had passed, and the silence of night had descended upon us and the time of sleep had come, the apostles SS. Peter and Paul stood by me saying, 'Since thou hast put an end to thy sins and recoiled from shedding the blood of the innocent, we are sent by Christ, our Lord God, to give thee counsel for the recovery of thy health. Hear, therefore, our counsel and do whatever we bid thee. Silvester, bishop of the city of Rome, flying from thy persecutions, is in hiding with his clergy in the caverns of the rocks on Mount Serapte. When thou hast called him to thee, he will show thee the pool of piety; and, when he has thrice immersed thee therein, all the strength of this leprosy will leave thee. When that is done, make this return to thy Saviour, that by thy command all the churches throughout the world be restored; and purify thyself in this, that thou abandon all the superstition of idols and adore and worship the living and true

[1] Constantine then announces his repudiation of paganism and his belief in the articles of the Christian creed.

God, who alone is true, and devote thyself to His will. . . .[1]

And so the first day after my reception of the mystery of holy baptism and the cure of my body from the squalor of leprosy I understood that there is no other God than the Father, the Son and the Holy Spirit, whom most blessed Silvester, the Pope, preaches, a Trinity in unity and Unity in trinity. For all the gods of the nations, whom I have hitherto worshipped, are shown to be demons, the works of men's hands. And the same venerable father told us clearly how great power in heaven and earth our Saviour gave to His apostle, blessed Peter, when in answer to questioning He found him faithful and said: 'Thou art Peter, and upon this rock I will build My church; and the gates of hell shall not prevail against it.' Attend, ye mighty, and incline the ear of your heart to what the good Lord and Master further gave to His disciple when He said: 'I will give unto thee the keys of the kingdom of heaven: and whatsoever thou shalt bind on earth shall be bound in heaven, and whatsoever thou shalt loose on earth shall be loosed in heaven.'[2] And when I learned these things at the mouth of blessed Silvester and found that I was wholly restored to health by the beneficence of blessed Peter himself, we—together with all our satraps and the whole senate, and the magnates and all the Roman people, which is subject to the glory of our empire—considered that, since he[3] is seen to have been constituted the vicar of God's Son on earth, the pontiffs who act on behalf of that prince of the apostles should receive from us and our empire more power of government than the earthly clemency of our imperial serenity is seen to have conceded to them; for we choose the same prince of the apostles and his vicars to be our constant patrons before God. And since our imperial power is earthly, we have decreed that it shall venerate and honour his[3] most holy Roman

[1] Here follows an account of Constantine's interview with Silvester, of his acceptance of Christianity and of his cure from leprosy by the act of baptism.

[2] Matthew xvi. 18, 19.

[3] *i.e.* St. Peter.

Church and that the sacred see of blessed Peter shall be gloriously exalted above our empire and earthly throne. We attribute to him the power and glorious dignity and strength and honour of the Empire, and we ordain and decree that he shall have rule as well over the four principal sees, Antioch, Alexandria, Constantinople and Jerusalem, as also over all the churches of God in all the world. And the pontiff who for the time being presides over that most holy Roman Church shall be the highest and chief of all priests in the whole world, and according to his decision shall all matters be settled which shall be taken in hand for the worship of God or the confirmation of the faith of Christians. For it is right that the sacred law should have the centre of its power there where the Founder of the sacred laws, our Saviour, commanded blessed Peter to have the chair of his apostolate, and where, bearing the suffering of the cross, he accepted the cup of a blessed death and showed himself an imitator of his Lord and Master ; and that there the nations should bow their necks in confession of Christ's name, where their teacher, blessed Paul, the apostle, bowed his neck for Christ and was crowned with martyrdom. There for ever let them seek a teacher, where lies the holy body of that teacher ; and there, prone in humility, let them perform the service of the heavenly King, God, our Saviour, Jesus Christ, where proudly they used to serve the empire of an earthly king. . . .[1]

To the holy apostles, my lords the most blessed Peter and Paul, and through them also to blessed Silvester, our father, supreme pontiff and universal pope of the city of Rome, and to the pontiffs, his successors, who to the end of the world shall sit in the seat of blessed Peter, we grant and by this present we convey our imperial Lateran palace, which is superior to and excels all palaces in the whole world ; and further the diadem, which is the crown of our head ; and the mitre ; as also the super-

[1] Constantine recounts his building and endowment of churches at Rome.

humeral, that is, the stole which surrounds our imperial neck; and the purple cloak and the scarlet tunic and all the imperial robes; also the rank of commanders of the imperial cavalry. . . .

And we decree that those most honoured men, the clergy of various orders serving the same most holy Roman Church, shall have that eminence, distinction, power and precedence, with which our illustrious senate is gloriously adorned; that is, they shall be made patricians and consuls. And we ordain that they shall also be honoured with other imperial dignities. Also we decree that the clergy of the sacred Roman Church shall be adorned as are the imperial officers. . . .

Wherefore—that the pontifical crown should not be cheapened, but rather that the dignity of a more than earthly office and the might of its glory should be yet further adorned—lo, we convey to the oft-mentioned and most blessed pontiff, our father Silvester, universal pope, both our palace, as preferment, and likewise all provinces, places and districts of the city of Rome and Italy and of the regions of the West; and, bequeathing them to the power and sway of him and the pontiffs, his successors, we do (by means of fixed imperial decision through this our divine, sacred and authoritative sanction) determine and decree that the same be placed at his disposal, and do lawfully grant it as a permanent possession to the holy Roman Church.[1]

Wherefore we have perceived that our empire and the power of our government should be transferred and removed to the regions of the East and that a city should be built in our name in the best place in the province of Byzantium and our empire there established; for it is not right that an earthly emperor should have authority there, where the rule of priests and the head of the Christian religion have been established by the Emperor of heaven. . . .

[1] The text appears to be very corrupt; and certainly abounds in difficulties.

Given at Rome, March 30th, when our lord Flavius Constantinus Augustus, for the fourth time, and Galliganus, most illustrious men, were consuls.

2. THE CORONATION OF CHARLES THE GREAT, DECEMBER 25, 800

Four accounts are here given of the imperial coronation, sometimes called the translation of the Empire from the Greeks to the Franks. The first and oldest is a bare, official, Frankish account, written shortly after the event itself. The second is the official account of the Roman court, probably written soon after the death of Pope Leo III (816). *It differs from the first only in dwelling on the virtues of the Pope and Charles's devotion to the Roman see.*

It has been suggested that the different tone of the other two accounts is due to Charles's efforts to justify his coronation in the eyes of the Byzantine Emperors, who treated Charles as a vulgar usurper.[1]

(*a*) SOURCE—*Annales Laurissenses*, in *M.G.H., Scriptores*, Vol. I, p. 188.

AT Mass on the most holy festival of our Lord's birth, when the King arose from kneeling in prayer before the confession [2] of blessed Peter, the apostle, Pope Leo placed a crown upon his head and all the Roman people cried aloud: 'To Charles, Augustus, crowned of God, great and pacific Emperor of the Romans, life and victory.' After the applause he was adored by the Pope after the manner of the princes of old, and, instead of patrician, he was called Emperor and Augustus.

(*b*) SOURCE—*L.P.*, Vol. II, p. 7.

Thereafter [after the trial of Leo III] on the day of our Lord Jesus Christ's birth all were collected again in the said basilica of blessed Peter the Apostle. Then the venerable and holy pontiff with his own hands crowned him with a most costly crown. Whereat, seeing his great devotion[3] and affection to the holy Roman Church and its vicar, all the Roman faithful cried out together with a loud voice, by the will of God and of blessed Peter, guardian

[1] See Halphen, *Études critiques sur l'histoire de Charlemagne*, 1921, pp. 219–238.

[2] The tomb of St. Peter, before the high altar.

[3] Literally, protection (*defensio*).

of the keys of heaven : ' To Charles, most pious, Augustus, crowned of God, great and pacific Emperor, life and victory.' Three times they repeated these words before the sacred confession of the blessed apostle Peter, invoking several saints; and he was constituted emperor by all. Thereupon the most holy prelate and pontiff anointed King Charles, his most excellent son, with the sacred oil that same Christmas Day.

(*c*) SOURCE—*Annales Laureshamenses, c. XXXIIII*, in *M.G.H., Scriptores*, Vol. I, p. 38.

And as the title of Emperor had then come to an end among the Greeks, who were under the rule of a woman, it seemed to Pope Leo himself and to all the holy fathers present at the council, as well as to the rest of the Christian people, that they ought to give the rank of emperor to Charles, King of the Franks, who held Rome itself, where the Caesars had ever been wont to dwell, as well as other places in Italy, Gaul and Germany. Since almighty God had put all these places in his power, it seemed to them but right that, in accordance with the demand of the whole Christian people, he should have the title also. This demand King Charles would not refuse; but, submitting in all humility to God, at the prayer of the clergy and of the whole Christian people, he received the title of Emperor together with consecration from Pope Leo.

(*d*) SOURCE—Eginhard, ch. 28.

His last journey [to Rome] was due to other causes.[1] The Romans had inflicted outrages on Pope Leo, had put out his eyes and cut out his tongue, and so forced him to implore the king's support. Charles therefore came to Rome to reform the disordered state of the church, and there passed the whole of the winter. It was then that he received the title of Emperor and Augustus ; from which at first he was so averse that he declared that he would not have entered the church that day, although it was a great festival, had he been able to foresee the Pope's intention.

[1] *i.e.* other than piety.

3. THE OATHS AT STRASSBURG, 842

The two brothers, Ludwig the German and Charles the Bald, cemented their alliance against their elder brother, Lothar, with these oaths. The text is given in the original languages, as it is of extreme interest to observe the stage reached in the evolution of French out of Latin, and an early form of the German language. Nithard, in whose history the oaths are given, was a grandson of Charles the Great.

SOURCE—Nithard, p. 105.

LUDWIG, being the elder, first took his oath: 'Pro Deo amur et pro christian poblo et nostro commun salvament, d'ist di in avant, in quant Deus savir et podir me dunat, si salvarai eo cist meon fradre Karlo et in aiudha et in cadhuna cosa, si cum om per dreit son fradra salvar dift, in o quid il mi altresi fazet et ab Ludher nul plaid nunquam prindrai, qui, meon vol, cist meon fradre Karle in damno sit.'

When Ludwig had finished, Charles repeated the same oath in Teutonic speech: 'In Godes minna ind in thes christianes folches ind unser bedhero gehaltnissi, fon thesemo dage frammordes, so fram so mir Got geuuizci indi mahd furgibit, so haldih thesan minan bruodher, soso man mit rehtu sinan bruher scal, in thiu thaz er mig so sama duo, indi mit Ludheren in nohheiniu thing ne gegango, the, minan uuillon, imo ce scadhen uuerdhen.'

[Except for slight verbal variations, the two oaths are to the same effect, the first being: 'For the love of God and for the Christian people and our common welfare, from this day forth, as far as God shall give me knowledge and power, I will succour this my brother Charles in help and in everything, as a man should by right succour his brother, provided that he does the same for me; and with Lothar I will never have any dealings, which, by my will, may be to the hurt of this my brother Charles.']

4. THE TREATY OF VERDUN, 843

Unfortunately the text of this important agreement, drawn up by the three Carolingian brothers and an assembly of some hundred and twenty notables, has not survived. But we have several accounts of it

in chronicles of the period, which give us the chief points of the treaty. The authority quoted is the manuscript annals found in the monastery of St. Bertin, near St. Omer, Pas de Calais. The portion, from which the extract is taken, is attributed to Prudentius, Bishop of Troyes, 845–861.

SOURCE—*Annales Bertiniani* (*Prudentii Trecensis*), in *M.G.H., Scriptores*, Vol. I, p. 440.

CHARLES went to confer with his brothers and met them at Verdun. There the portions were distributed. Ludwig obtained all the land beyond the Rhine [1] and on this side of the Rhine the cities and districts of Speyer, Worms and Mainz. Lothar received the country between the Rhine and the mouth of the Scheldt; thence southwards including the counties of Cambrai, Hainault, Namur, Castritius [2] and those counties, which are held to lie immediately on this side of the Meuse, down to the confluence of the Saône and the Rhône, and along the Rhône to the sea with the counties adjoining it on either side. All the other territories as far as Spain fell to Charles. Then oaths were taken, and they went their several ways.

5. THE RAVAGES OF THE NORTHMEN, 843–860

SOURCE—*Annales Bertiniani* (*Prudentii Trecensis*), in *M.G.H., Scriptores*, Vol. I, pp. 439 *et seq.*

843. PIRATICAL Northmen came to the city of Nantes. They killed the bishop and many of the clergy and of the laity, without distinction of sex; they sacked the city; and then began to ravage the districts of lower Aquitaine. Finally they came to a certain island,[3] on to which they transported houses from the mainland, and there they decided to pass the winter as though in a permanent settlement.

845. A very severe winter. In March a hundred and twenty ships of the Northmen ravaged all the country

[1] Not strictly accurate. Lothar's share included Frisia and other lands, east of the Rhine and west of a line roughly from the mouth of the Weser to Koblenz.

[2] On the middle Meuse, around Mézières.

[3] The isle de Rhé, near Rochelle.

on both sides of the Seine and advanced to Paris without meeting any opposition. Charles endeavoured to resist them, but saw that his followers could not possibly prevail. By agreements and the offer of seven thousand livres he stopped them from proceeding further and persuaded them to retire. . . . Euric, King of the Northmen, brought a fleet of six hundred ships up the Elbe into Germany against Ludwig. The Saxons opposed them, gave battle and by the help of our Lord Jesus Christ proved victorious. They then made for a certain city [1] of the Slavs and captured it. . . . The Danes, who in the previous year had ravaged Aquitaine, remained and invaded Saintonge. They overcame opposition and settled down as in a peaceful home. . . .

853. Danish pirates went up country from Nantes and on November 8 reached the city of Tours with impunity. They burned it, with the church of St. Martin and neighbouring places. But as the attack had been foreseen, the body of St. Martin had been removed to Cormery, a monastery of that church, and thence to Orleans. . . .

854. The Danes settled on the Loire came as far as the castle of Blois, burned it, and proposed to proceed to Orleans and to do the same there. But Agius, Bishop of Orleans, and Burchardus, Bishop of Chartres, collected ships and men to oppose them. So they desisted and went down the Loire again. . . .

855. The Northmen came up the Loire, left their ships and set out on foot for Poitiers. But they received such a defeat from the Aquitanians that scarcely 300 of them escaped.

856. Danish pirates came up the Seine in mid-August. They plundered and destroyed the cities on both sides of the river and even distant monasteries and villages. They selected a place called Fossa-Givaldi, conveniently situated by the Seine, and there they quietly passed the winter.

859. Danish pirates entered the Rhône after a long

[1] Hamburg is indicated.

voyage, sailing round between Spain and Africa. They reached several cities and monasteries and settled down on the island called Camaria.[1]

860. King Charles, allured by the empty promises of the Danes settled on the Somme, ordered a levy on the treasuries of churches and on all manors and merchants, even the poorest, providing that their houses and all their utensils should be valued and assessment made; for these Danes had promised that, if 3,000 pounds of silver, of tested weight, were paid them, they would attack the Danes who were on the Seine, and expel and massacre them. . . . As the Danes on the Somme did not receive the said levy, they took hostages and sailed against the Anglo-Saxons, by whom they were defeated and repulsed. They then sought other lands. The Danes on the Rhône carried their devastations as far as Valence and then returned to their island, having ravaged all the country round. . . . The Danes on the Rhône went to Italy and captured, plundered and devastated Pisa and other cities.

6. THE FOUNDATION CHARTER OF CLUNY, SEPTEMBER 11, 910

Duke William of Aquitaine, who had decided to found a monastery, thought that he could not do better than consult the revered abbot Berno, who had restored monastic discipline at Baume. Berno, to the duke's dismay, fixed on Cluny, William's favourite hunting-ground, as the site for the future foundation. 'Impossible,' William replied; 'I cannot have my dogs removed.' Jocularly the abbot answered, 'Drive out the dogs, and put monks in their place, for thou canst well think what reward God will give thee for dogs, and what for monks.' [2] *Despite William's charter and gifts, the new monastery was not very prosperous at first. When Berno died* (926), *the buildings were not completed. It was under the second abbot, Odo, that the greatness of Cluny began. William's charter insisted on the independence of Cluny, rendered easier by her geographical position in the Burgundian hills, remote alike from barbarian invasions and the power of the Frankish king and the Teutonic emperor. Abbot Odo received a charter from Pope*

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[1] La Camargue, in the estuary of the Rhône.

[2] This legend, from *Vita Hugonis*, cap. ii, 13, is quoted in L. M. Smith, *The Early History of the Monastery of Cluny*, 1920, p. 11.

John XI in 931 *allowing Cluny to receive monks from other, undisciplined, monasteries, and to undertake the reform of monasteries which needed it. This opened the way for Cluny's task of reformation.*

SOURCE—Text in Bruel, Vol. I, p. 124 (No. 112). Translation in Henderson.

. . . Therefore be it known to all . . . that, for the love of God and of our Saviour Jesus Christ, I convey from my own lordship to the holy apostles Peter and Paul my rightful property—the vill of Cluny, with its court and demesne manor, and the chapel of Mary, the holy mother of God, and of St. Peter, prince of the apostles, with all appurtenances thereof, vills, chapels, serfs of both sexes, vineyards, fields, meadows, woods, ponds and their outlets, mills, incomes and revenues, land cultivated and uncultivated, in entirety. . . . I give all these things to the said apostles—I, William, and my wife, Ingelberga—first for love of God, then for the souls of my lord the king, Odo, and of my father and my mother; for the salvation of myself and my wife in body and soul, and no less of Avana,[1] who gave me these possessions in her will; for the souls of our brothers, sisters, nephews and all our relatives of both sexes; for our vassals who are constant in our service; and for the welfare and integrity of the Catholic religion. Finally, since all we Christians are held together by one bond of love and faith, let this donation be on behalf of all the orthodox of past, present and future times.

My gift is on condition that in Cluny a regular monastery shall be built in honour of the holy apostles Peter and Paul, and that there the monks shall live together according to the rule of St. Benedict, and that they shall possess, hold, have and control this property for all time; in such wise that the venerable house of prayer shall faithfully be used for petitions and supplications, that the heavenly life shall be sought with all longing and heartfelt ardour, that prayers and petitions shall be constantly addressed to the Lord both for me and for all, as recorded above. And the monks, with all the aforesaid property, shall be

[1] William's sister.

under the power and rule of the abbot Berno, who shall preside over them, according to rule, for his lifetime, to the best of his knowledge and ability. After his death the monks shall have power and leave, according to the will of God and the published rule of St. Benedict, to elect whomever of their order they prefer as abbot and rector; and shall not be prevented by us or by any other power from making a canonical election. Every five years the said monks shall pay ten shillings to the church of the apostles at Rome for the maintenance of their lights; and they shall have the protection of those apostles and of the Roman pontiff. And the monks shall build the said place with their whole heart and soul. . . .

And we will that . . ., as far as possible, works of mercy shall daily be performed for the poor, the needy, strangers and pilgrims. And it has pleased us to insist in this testament that from to-day the monks there congregated shall not be subjected to our yoke or that of our relatives or to the sway of the royal might or of any earthly power. And, by and before God and all His saints and the day of awful judgment, I adjure and warn every secular prince, count and bishop, and the pontiff of the said Roman see, not to invade the property of these servants of God, nor seize it, nor diminish it, nor exchange it, nor endow anyone else with it, nor to appoint any prelate over them against their will. [The rest of the document consists of a series of terrific curses upon any violator of the charter, followed by the attestations of Duke William, his wife and a large number of bishops and nobles.]

7. THE TREATY OF ST. CLAIR-SUR-EPTE, 911

Rollo and his Northmen were driven back from Chartres in the summer of 911. *With savage fury they retired, laying the country waste. Another foray of theirs into the Nivernais was also repulsed. Then King Charles the Simple, seeing that the Northmen could not be ejected from the country but might now be in a chastened mood, determined to make a peace with their leader.*

The Gesta Normannorum Ducum *is a history compiled by William,*

a monk of Jumièges, about 1070. *Considerable additions to it were made about* 1150 *by Robert of Torigny, prior of Bec and later abbot of Mont-St.-Michel. In the passage below the portions due to Robert of Torigny are placed in round brackets. But both authors, in this passage, reproduce the earlier work of Dudo, dean of St. Quentin, who wrote a history of the early Norman dukes soon after* 1000. *Thus the earliest authority, which we have, dates from nearly a century after the events described; and Dudo, who wanted to glorify the predecessors of the Duke of Normandy of his day, is not very trustworthy. This document is, therefore, not an ideal source for history, but is included as an example of what historians have to use when they can get no preciser evidence.*

SOURCE—*Jumièges*, pp. 28 and 220.

THE king hastily sent Archbishop Franco[1] to Rollo, offering to give him the coastland from the river Epte to the boundaries of Brittany, together with his daughter, Gisela, if he would become a Christian. . . . At the stated time they came to the appointed place, called St. Clair—the king with Robert, Duke of the Franks, on the far bank of the Epte, and Rollo on this side, surrounded by their troops. . . . (At first the king wished to give him the province of Flanders to live on; but Rollo refused it because of its marshy character. Then Rollo refused to kiss the king's foot on receiving the duchy of Normandy from him. The bishops said, 'He who receives such a gift ought to salute the king's foot with a kiss.' 'Never', said he, 'will I bend my knees before any one, nor will I kiss the foot of any Frank.' Moved, however, by their prayers, he ordered one of his warriors to kiss the king's foot. The latter promptly seized the king's foot, carried it to his mouth and kissed it standing, thus throwing the king on to his back. At that there was a roar of laughter and a great disturbance amongst the spectators. However, King Charles and Robert, Duke of the Franks, with the counts and magnates, bishops and abbots, swore an oath of the Catholic faith to the patrician Rollo, on their lives and members and the honour of the whole kingdom, that he should hold and possess the aforesaid territory and transmit it to his heirs. . . .) The king joyfully returned home,

[1] Of Rouen.

while Rollo went with Duke Robert to Rouen in the year 912. And there he was baptized in the sacred font by Archbishop Franco in the name of the Holy Trinity. Robert received him from the font and gave him his own name. The pagans, seeing their leader become a Christian, abandoned their idols, accepted the name of Christ and all came forward for baptism. . . .

Robert, Duke of the Normans, provided safety for all peoples who wished to live in his land. He surveyed the land and divided it amongst his followers and restored it from its universal and prolonged state of desolation. . . .

8. THE ELECTION OF HUGH CAPET, MAY, 987

With Louis V the direct descendants of Charles the Great came to an end in France. The election of Hugh Capet in preference to the late king's uncle, marked the final triumph of the Robertian 'dukes of the Franks', who held the French crown for over 800 years.

This passage is taken from the history of Richer, a monk who lived at Rheims in the later tenth century. He was at pains to adorn his record with literary style. In this passage he has no doubt written up the archbishop's speech into a literary oration.

A new edition of Richer, with French translation, is about to be published by R. Latouche.

SOURCE—*Richeri historiarum libri IV*, in *M.G.H., Scriptores*, Vol. III, p. 633.

AT the appointed time the magnates of Gaul, who had taken the oath,[1] met at Senlis. When they had taken their seats in the assembly, at a sign from the duke,[2] the archbishop[3] spoke as follows: 'Since Louis of divine memory has departed this life without issue, it has become necessary to take counsel and consider who should take his place as king, that the community shall not suffer from lack of a ruler. . . . We know that Charles[4] has his supporters, who hold that he should be king by hereditary right. But, if we consider the matter, the kingship is

[1] On May 22 Archbishop Adalbero (of Rheims) had persuaded the nobles present at King Louis V's funeral to swear to take no steps about the succession till a general assembly could be held to decide the matter. [2] Hugh Capet. [3] Adalbero.
[4] Charles of Lower Lorraine, uncle of Louis V.

not acquired by hereditary right, nor should any one be elevated to the throne unless he is distinguished by nobility of presence and wisdom of mind, made strong by honour and magnanimity. We read in the annals that emperors of illustrious descent were dethroned for unworthiness and that others of equal or of lesser rank succeeded them. But what dignity can be conferred on Charles, who displays neither honour nor vigour, who has so demeaned himself as willingly to serve a foreign king [1] and to marry a wife from the knightly class of lower rank than his own? How could the great duke tolerate the elevation as queen of a woman taken from amongst his knights, and her domination over him. . . . If you wish the country to be unhappy, elect Charles; if you wish it well, crown the noble duke, Hugh, as king. . . . Elect the duke, who is distinguished by his conduct, his nobility, his wealth, and you will find him the protector not only of the country, but of private rights. His benevolence will make you find in him a father. For who has fled to him and not found protection? Who that was bereft of the help of his friends, has not been restored by the duke to his rights?'

This speech was applauded by all. The duke was elevated to the throne by the consent of all. On June 1 he was crowned by the metropolitan and other bishops at Noyon, and proclaimed king of the Gauls, Bretons, Normans, Aquitanians, Goths, Spaniards and Gascons. . . .

9. THE GRANT OF THE KINGDOM OF HUNGARY, 1000

This letter of Silvester II to St. Stephen marks a stage in the development of papal authority. It had previously been considered the Emperor's prerogative to confer the royal title. Silvester's act was a precedent which later Popes frequently followed. This papal investiture of St. Stephen with 'the sacred crown' of Hungary also marks the definitive entry of the Magyars into the comity of Christian nations.

SOURCE—Text in Migne, Vol. 139, col. 274.

SILVESTER, Bishop, slave of the slaves of God, to Stephen,

[1] i.e. the Emperor.

Duke of the Hungarians, greeting and apostolic blessing. . . . First we give thanks to God the Father and our Lord Jesus Christ, who in our times has found a David, son of Jesse, a man after His own heart, filled with heavenly light, and has raised him up to feed His people Israel, the chosen race of the Hungarians. Further we praise your sublimity's piety towards God and reverence to the apostolic see, over which, by no right of our merits, but by the divine mercy, we preside. Also we commend your great liberality in having, by your envoys and letters, offered in perpetuity to blessed Peter, prince of the Apostles, the kingdom and the race, of which you are Duke, and yourself and all your possessions. . . .

Wherefore, glorious son, by the authority of Almighty God and the Apostles Peter and Paul, and at the command of Almighty God, we have freely granted, and we do grant and bestow, with our apostolic blessing, all that you have asked of us and of the apostolic see, namely the royal crown and title, the creation of the metropolitan see of Esztergom and other bishoprics. And we receive you and your race and the Hungarian nation present and future under the protection of the holy Roman Church; and the kingdom, offered by your munificence to St. Peter, we return and convey to your prudence, to your heirs and legitimate successors, to have, hold, rule, govern and possess. And your heirs and successors, when they have been lawfully elected by the nobles, shall be bound to offer, either in person or by envoys, due obedience and reverence to us and to our successors, and to acknowledge themselves the subjects of the holy Roman Church, which does not treat her subjects as slaves, but receives all as sons. . . . And because your nobility has emulated the glory of the Apostles, and been willing to discharge the apostolic duty of preaching Christ and propagating faith in Him, and tried to act on behalf of us and the priesthood and to honour the prince of the Apostles above all others; therefore we desire now and for all future times to confer upon your excellency, your heirs and legitimate

successors, who shall be, as aforesaid, elected and approved by the apostolic see, this singular privilege, namely that, when you or they shall have been rightly crowned with the crown which we are sending and according to the formula given to your envoys, you and they can and may have a cross borne before yourself and themselves, in sign of apostleship.[1] Likewise by apostolic authority we have granted the power to provide and ordain, on behalf of us and our successors, for the dioceses of your realm, both present and future, according as the divine Grace shall guide you and them. . . .

Given at Rome, March 27 . . .

10. THE PEACE AND TRUCE OF GOD, 989–1054

The movement for enforcing the Peace, and later the Truce, of God was one of the chief social efforts of the monastic clergy. It was a peaceful insurrection of the church against the violence and anarchy of the feudal baronage. The movement had its origins amongst the clergy of Burgundy and Aquitaine. The bishops called assemblies in which they pronounced severe ecclesiastical penalties against those who did violence to the poor or the unarmed or to their property. An example, from the tenth century, is given below (a). More efficient measures were, however, required. Prelates therefore induced each other and neighbouring barons to take an oath abjuring violence against the poor or unarmed. These were regional pacts, not unlike the Treaties of Locarno of 1925. *There were sanctions both temporal and ecclesiastical. The oath-takers were bound to assist in punishing any violator of the oath, and the local bishop could pronounce an interdict* (i.e., *a strike of the clergy*) *on the territory of the offender.*

In the eleventh century the ecclesiastical authorities went further and added the Truce of God. The Peace applied to certain classes at all times. The Truce applied to all classes at certain times. A beginning was made in the diocese of Elne in 1027 (*see* (*b*) *below*), *when all fighting during the week-end was forbidden, so that Sunday should be properly kept. This principle was rapidly developed till by* 1054 (*see* (*c*) *below*) *there was hardly enough of the year left free to enable a full-blooded baron to get any decent fighting. The terms of the Truce of* 1054 *became the normal form of proclamation in the later eleventh*

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[1] Hence the title of 'Apostolic King', borne by the Kings of Hungary till 1918 and still affected by the legitimate heir to the last king.

century, when it was adopted by popes and emperors. The Peace and Truce did something, but nothing like as much as the clauses would suggest, to protect life and property in a barbarous age.

(*a*) *Peace of God, proclaimed in an assembly at Charroux*, 989

SOURCE—Text in Huberti, Vol. I, p. 35.

I, GUNBALD, Archbishop of Aquitania secunda,[1] and all my comprovincial bishops, together with religious clerks and others of both sexes, met at the hall, which is called Karrof.[2] . . . Thus solemnly assembled in God's name we decreed thus:

1. Anathema for violators of churches: if any one breaks into a sacred church, or violently removes anything thence, unless he makes satisfaction, let him be anathema.

2. Anathema for spoilers of the poor: if anyone robs peasants or other poor of a sheep, ox, ass, cow, goat, or pigs, unless by the other's fault, and if he neglect to make full reparation, let him be anathema.

3. Anathema for those who assault the clergy: if anyone attacks, captures or assaults a priest or deacon or any clergyman, who is not carrying arms (that is, shield, sword, coat of mail and helmet), but quietly going on his way or remaining at home, that sacrilegious man shall be held to be cast forth from the holy church of God, unless he makes satisfaction, after the clergyman has been examined by his bishop to see if he was at fault.

(*b*) *The Earliest Truce of God, proclaimed in the diocese of Elne*,[3] 1027

SOURCE—Text in Huberti, Vol. I, p. 240.

. . . And so the said bishops, with all the clergy and the faithful people, provided that [1] throughout the whole of the said county[4] and bishopric no one should attack his enemy from the ninth hour[5] on Saturday until the first hour[5] on Monday, so that everyone may perform his religious duties on Sunday. [2] And none shall attack

[1] *i.e.*, of Bordeaux. [2] Charroux, not far from Poitiers, Vienne.
[3] Near Perpignan. [4] Roussillon. [5] Counting from sunrise.

a monk or a clergyman who is unarmed, nor any man going to or coming from a church or a council, nor a man accompanied by a woman.[1] [3] And none shall dare to violate a church or the houses within thirty paces of a church. . . . [6] No Christian should eat or drink with excommunicates, nor kiss them, nor talk with them, except about their repentance. If they die excommunicate, they shall not be buried at the church; nor should any cleric or faithful Christian pray for them. . . .

(c) *Truce of God proclaimed at the Council of Narbonne, August* 25, 1054

SOURCE—Text in Huberti, Vol. I, p. 317.

1. First, we order that no Christian slay his fellow-Christian. For he who kills a Christian, without doubt sheds the blood of Christ. If any one unjustly kills a man, he shall pay the penalty according to law.

2. We confirm the truce of God, which was long ago established by us and now is broken by evil men. Henceforth it shall be faithfully observed by all. Accordingly we adjure in God's name every Christian not to do hurt to any other Christian from sunset on Wednesday till sunrise on Monday.

3. From the first Sunday in Advent till the octave of Epiphany; from the Sunday before Lent till the octave of Easter; from the Sunday before Ascension Day till the octave of Whitsunday; and on the following feasts and their vigils—those of St. Mary, St. John Baptist, apostles, St. Peter in chains,[2] Justus and Pastor,[3] St. Laurence, St. Michael, All Saints, St. Martin; and in the four periods of Ember Days: we forbid any Christian to attack another Christian during any of the said fasts, feasts and vigils or to insult him or to seize his property.

[1] A rule which is said to obtain to-day even in the wildest parts of Albania.

[2] August 1.

[3] August 6. Two Spaniards of Alcala, martyred about 304.

[Clauses 4–8 provide penalties for breaches of the truce.]

6. If any one does any other injury or hurt to another, by the sentence of his own bishop, or the clergy to whom the bishop commits the matter, according to the character of the fault he shall do right by the ordeal of cold water or by exile, as is provided.

9. Olive-trees, which, we read, were used as a sign that peace had returned to the earth at the time of the flood, and from whose oil the holy chrism is made, shall be so strictly protected that no Christian shall dare to cut them down or injure them or seize their fruit. . . .

10. Sheep and their pastors, while tending them, shall also be under the truce of God on all days in all places. . . .

[There follow the clauses of the peace, which are an enlargement of (*a*) 2 and 3 above, for the protection of clerics, peasants, women, merchants, etc.]

11. HENRY III'S REFORMATION OF THE PAPACY, 1046

The Emperor Henry III used his journey to Rome for his imperial coronation to purge the papacy of the disorders into which it had fallen. The conflicting accounts of what happened have raised difficulties. But the account given in the Annals of Corbey *appears to be reliable. In that case events occurred as follows. On Henry's request Gregory VI summoned a council for December 20 at Sutri, at which Silvester III appeared. Gregory VII and Silvester III were deposed, the latter entering the monastic life and the former being kept under guard to be later taken north of the Alps with the Emperor. Another council was assembled at Rome on December 23, to give Benedict IX an opportunity to defend himself. As he failed to appear, he was deposed. The Emperor then nominated Suidger, who only accepted the papacy after the council had heartily endorsed the Emperor's suggestion. For a discussion of the episode, see* Hefele, *Vol. IV, pp.* 981–991.

SOURCE—*Annales Corbeienses a.* 1046. Text in Mirbt, p. 137 (No. 263).

THE first and great synod was held at Pavia in the presence of the lord Henry, then king. The second at Sutri, at which in the presence of the king and according to the provisions of the canons two popes, the second and the third, were deposed. The third synod was held at Rome

on the Tuesday and Wednesday before the Nativity of our Lord. At it Pope Benedict was canonically and synodically deposed; and by the unanimous election of the clergy and people Suidger, Bishop of Bamberg, was substituted for him. Suidger was consecrated pope with name of Clement [II] on the next day [1]; and, by the will and with the overwhelming approval of the Roman people, he crowned the lord Henry emperor.

[1] December 25.

II

THE HILDEBRANDINE REFORMATION [1]

12. THE DECREE ON PAPAL ELECTIONS, 1059

The eleventh century was marked by a great revival in the zeal for righteousness of the Christian clergy. The home of the revival was Lorraine and Burgundy, and at first it expressed itself in a reformed monasticism. Reform could not become general until the Papacy itself was purified; and the Papacy was too often represented by men of low character, elevated to their post as a result of violence or bribery amongst the dominant families of Rome. The Emperor Henry III inaugurated a line of upright German Popes in place of their scoundrelly Roman predecessors. But in the eyes of the reformers this arrangement still suffered from the defect that lay at the root of the low character of the clergy in Europe generally—namely the control of ecclesiastical appointments by laymen, who treated such appointments as a means of getting money. A necessary step, therefore, was to render the Papacy independent of lay control. The pontificate of Nicholas II (1058–61) is memorable for the decree on Papal elections, made at the Lateran Council of 1059, and the alliance of the Papacy with the Norman power in South Italy in the same year.

Source—Text in Bernheim, Vol. I, pp. 12–14. Mirbt, pp. 140–2 (No. 270).

. . . we [Pope Nicholas II] decide and establish [3] that, on the death of the pontiff of this Roman universal church, first of all the cardinal bishops shall discuss with most diligent consideration and then shall summon the cardinal clergy to join them; and afterwards the rest of the clergy and people shall give their assent to the new election. [4] That, lest the disease of venality creep in by any means, godly men shall take the chief part in the election of the pontiff, and the others shall follow their lead. [This method of election is then declared regular and in conformity with precedent, especially with the words of St. Leo]. 'No argument', he says, 'will permit them to be considered

[1] Full translations of most of the documents, quoted in this section, will be found in Henderson.

bishops who have not been elected by the clergy, nor demanded by the people, nor consecrated by the bishops of the province with the approval of the metropolitan.' But since the apostolic see is raised above all churches in the world and therefore can have no metropolitan over it, the cardinal bishops without doubt perform the function of a metropolitan, when they raise the pontiff elect to the apostolic eminence. [5] They shall elect someone from amongst this [1] church, if a suitable candidate be found; if not, he shall be chosen from another church.[2] [6] Saving the honour and reverence due to our beloved son Henry, who at present is acknowledged King and, it is hoped, will be Emperor, if God permit; as we have granted to him and to such of his successors as obtain this right in person from the apostolic see. [7] But, if the perversity of evil and wicked men shall make it impossible to hold a pure, sincere and uncorrupt election in the city, the cardinal bishops with the godly clergy and catholic laymen, even though few, shall have the lawful power to elect the pontiff of the apostolic see in any place which they shall consider more convenient.[3] [8] After an election has been clearly made, if the fierceness of war or the malignant endeavours of any man shall prevent him who is elected from being enthroned on the apostolic seat according to custom, the elect shall nevertheless have authority as Pope to rule the holy Roman church and to dispose of its resources, as we know that blessed Gregory did before his consecration. . . .

I, Nicholas, bishop of the holy, Catholic and apostolic Roman church, have signed this decree promulgated by us, as is set out above. I, Boniface, by God's grace bishop of Albano, have signed. I, Humbert, bishop of the holy church of Silva Candida, have signed. I, Peter, bishop of the church of Ostia, have signed. And 76 other bishops with priests and deacons have signed.

[1] *i.e.* the Roman church.

[2] Nicholas II himself had been called from the bishopric of Florence to be Pope.

[3] Nicholas II had been elected at Siena.

13. ROBERT GUISCARD'S OATH AT MELFI, AUGUST, 1059

To obtain independence for the Papacy from both the Empire and the Roman aristocracy, Nicholas II decided to form an alliance with the only power in Italy capable of protecting him—the leaders of the Norman freebooters in southern Italy. He therefore met Richard of Capua and Robert Guiscard at Melfi in August, 1059, and there granted them Papal investiture of the principalities which they had formed. In return they became Papal vassals. Guiscard's oath of fealty is here given.

SOURCE—Text in Chalandon, Vol. I, p. 170. Mirbt, p. 143 (No. 272).

I, ROBERT, by the grace of God and St. Peter, Duke of Apulia and Calabria, and by their help some day to be duke of Sicily,[1] from this hour will be faithful to the holy Roman church and the apostolic see and to thee, my lord Pope Nicholas. I will take no part in any plan or action whereby thou mayst lose thy life or any member or be held in vile imprisonment. Counsels which thou shalt entrust to me and forbid me to reveal, I will not knowingly reveal to thy hurt. With all my power I will support the holy Roman church against all men in holding and acquiring the *regalia*[2] of St. Peter and his possessions, and I will aid thee to hold securely and honourably the Roman Papacy and the land of S. Peter. . . . And all the churches in my lordship with their possessions I remit into thy possession.[3] . . . And if thou or thy successors pass out of this life before me, according as I shall receive instructions from the better cardinals, the clergy and laity of Rome, I will support them in the election and consecration of a Pope to the honour of St. Peter. . . .[4]

[1] Then in the power of the Saracens.

[2] *i.e.* temporalities, rights arising from a position of temporal authority on behalf of an emperor or king.

[3] At the time of the iconoclastic controversy the Emperor Leo the Isaurian had transferred Calabria and Sicily from the ecclesiastical obedience of Rome to that of Constantinople.

[4] Nicholas II and Hildebrand needed Norman support for the decree on Papal elections, which was likely to provoke imperial and Roman resentment.

14. GREGORY VII'S FIRST DECREE ON LAY INVESTITURE, 1075

The decree is not extant, nor does it seem to have been widely published. though Gregory sent a copy to Henry IV. No contemporary German writer seems to have known of it. We owe our knowledge of its wording to Arnulf, a Milanese historian.

SOURCE—Text in Mirbt, p. 150 (No. 287). Bernheim, I, p. 43.

THE Pope held a council at Rome and publicly forbade the King thenceforth to have any rights in the conferring of bishoprics, and he withdrew the investiture of churches from all lay persons.

15. THE MANIFESTO OF THE SYNOD OF WORMS, TO GREGORY VII, JANUARY 24, 1076

During 1075 Gregory VII maintained friendly relations with Henry IV, and tried to enforce strict obedience to his reforming decrees on the German clergy. The Bishops of Bamberg, Strassburg and Speyer were suspended for non-attendance at his synod at Rome in February, 1075. He communicated the decrees of that synod to Archbishop Siegfried, who protested against the need for enforcing them but eventually summoned a synod at Mainz in October. This synod was broken up by the turbulent German clergy. Their cause was now taken up by Henry IV, who, triumphant over the Saxons in the previous June, intervened in Italy to nominate bishops to the sees of Fermo, Spoleto and, above all, Milan, a direct breach of his former promises to Gregory. Gregory now sent a message to Henry, threatening him with excommunication for these actions and for associating with excommunicated persons. Henry decided to make common cause with the recalcitrant German bishops, whom he summoned to Worms. The bishops readily agreed to the manifesto here given, in which they accused Gregory of various misdemeanours, but especially of centralizing ecclesiastical authority at Rome. Henry also wrote himself, repudiating the papal claim to judge the royal conduct and withdrawing recognition of Gregory as Pope. A synod of North Italian bishops adhered to the manifesto of Worms and Roland of Parma was bidden to deliver the defiance of the bishops of the Empire to Gregory. This he did as Gregory's Lenten synod of 1076 was opening.

SOURCE—Text in Bernheim, Vol. I, p. 68.

SIEGFRIED, Archbishop of Mainz, Udo of Trier, William of Utrecht, Hermann of Metz, Henry of Liége, Ricbert of Verden, Bibo of Toul, Hozemann of Speyer, Burckhard of Halberstadt, Werner of Strassburg, Burchard of Basel,

Otto of Constance, Adalbero of Würzburg, Rodbert of Bamberg, Otto of Regensburg, Ellinard of Freising, Udalric of Eichstädt, Frederick of Münster, Eilbert of Minden, Hezil of Hildesheim, Benno of Osnabrück, Eppo of Naumburg, Imadus of Paderborn, Tiedo of Brandenburg, Burchard of Lausanne, Bruno of Verona—to brother Hildebrand.

Although, when thou didst first seize the control of the church, it was clear to us how unlawful and wicked a thing thou hadst presumed to do contrary to right and justice with thine usual arrogance; nevertheless we thought fit to cover the evil beginnings of thine inauguration with an indulgent silence, hoping that these iniquitous preliminaries would be emended and outweighed by the integrity and diligence of thy subsequent administration. But now, as the lamentable condition of the whole church sadly proclaims, thou art consistently and pertinaciously faithful to thine evil beginnings, in the increasing iniquity of thine actions and decrees. . . . The flame of discord, which thou didst arouse with bitter disputes in the Roman church, thou hast scattered with senseless fury throughout all the churches of Italy, Germany, Gaul and Spain. For to the utmost of thy power thou hast deprived the bishops of all the power, known to have been divinely given to them by the grace of the Holy Spirit, Who operates above all in ordinations. Thou hast given all oversight over ecclesiastical matters to the unstable mob. None is now acknowledged a bishop or a priest, unless by unworthy subservience he has obtained his office from thy magnificence. Thou hast thrown into wretched confusion all the life of the apostolic institution [1] and that perfect interrelation of the members of Christ, which the teacher of the gentiles [2] so often commends and inculcates. Thus, because of thine ambitious decrees—with tears it must be said—the name of Christ has all but perished. Who is not outraged by thine unworthy conduct in arrogating to thyself a new and improper power in order to destroy the lawful

[1] *i.e.*, the episcopate.

[2] *i.e.*, St. Paul.

rights of the whole brotherhood? For thou dost assert that, if the mere news of a sin committed by a member of our flocks reaches thee, none of us has thenceforth any power to bind or loose him, but thou only or he whom thou shalt specially delegate for the purpose. Who, that is learned in the sacred scriptures, does not see that this decree exceeds all madness? Wherefore . . . we have decided, by common consent of us all, to make known to thee that on which we have hitherto kept silence, namely why thou canst not now, nor ever could, preside over the apostolic see. Thou didst bind thyself with a corporal oath in the time of the Emperor Henry of blessed memory that never in the Emperor's lifetime, nor in that of his son, our present reigning and glorious King, wouldst thou thyself accept the papacy, or, as far as in thee lay, wouldst thou suffer another to accept it, without the consent and approval of the father, while he was alive, or of the son, while he lived.[1] And there are to-day many bishops who witnessed that oath; who saw it with their eyes and heard it with their ears. Remember too how, when ambition to be pope moved several of the cardinals, to remove all rivalry on that occasion, thou didst bind thyself with an oath, on condition that they did the same, never to hold the papacy. See how faithfully thou hast kept both these oaths.

Further, when a synod was held in the time of Pope Nicholas, whereat 125 bishops assisted, it was established and decreed under pain of anathema that none should ever be made Pope except by the election of the cardinals, the approbation of the people and the consent and authorization of the king.[2] And of that decision and decree thou thyself wast the author, promoter and signatory.

Also thou hast, as it were, filled the whole church with the stench of a grave scandal by associating more intimately

[1] This promise was perhaps given in the negotiations with Henry III about a successor to Pope Leo IX.

[2] See No. 12, pp. 23, 24.

than is necessary with a woman not of thy kin. This is a matter of propriety rather than of morality; and yet this general complaint is everywhere made, that at the apostolic see all judgements and all decrees are the work of women, and that the whole church is governed by this new senate of women. . . .

Wherefore henceforth we renounce all obedience unto thee—which indeed we never promised to thee. And since, as thou didst publicly proclaim, none of us has been to thee a bishop, so thou henceforth wilt be Pope to none of us.

16. THE FIRST DEPOSITION OF HENRY IV BY GREGORY VII, FEBRUARY, 1076

Roland of Parma's announcement of the Imperial defiance aroused the Lenten synod of 1076 to fury. The Pope alone remained calm and intervened to protect the imperial envoy from maltreatment. He then obtained the assembly's approval of formal sentence upon those who had subscribed the manifesto of Worms. The German and Lombard bishops were deposed and excommunicated, though permitted to make their peace by August 1, if they had been coerced into signing the offending document. The Pope then delivered sentence on Henry, in the form of the following address to St. Peter.

SOURCE—Text in Bernheim, Vol. I, p. 72. Mirbt, p. 147 (No. 279).

BLESSED Peter, prince of the apostles, incline thine holy ears to us, I pray, and hear me, thy servant, whom from infancy thou hast nourished and till this day hast delivered from the hand of the wicked, who have hated and do hate me for faithfulness to thee. . . . Especially to me, on thy behalf, has been committed, and to me by thy grace has been given by God the power of binding and loosing in heaven and on earth. Relying, then, on this belief, for the honour and defence of thy church and in the name of God Almighty, the Father, the Son and the Holy Ghost, through thy power and authority, I withdraw the government of the whole kingdom of the Germans and of Italy from Henry the King, son of Henry the Emperor. And I absolve all Christians from the bond of

the oath which they have made to him or shall make. And I forbid anyone to serve him as king. For it is right that he who attempts to diminish the honour of thy church, shall himself lose the honour which he seems to have. And since he has scorned to show Christian obedience, and has not returned to the Lord whom he has rejected—holding intercourse with excommunicaets; committing many iniquities; despising my warnings, which, as thou art my witness, I have sent to him for his salvation; separating himself from thy church and trying to divide it—on thy behalf I bind him with the bond with anathema. Trusting in thee I thus bind him that the peoples may know and acknowledge that thou art Peter and that on thy rock the Son of the living God has built His church and that the gates of hell shall not prevail against it.

17. GREGORY VII'S JUSTIFICATION OF HIS SENTENCE ON HENRY IV, 1076

Aware that he had taken an extreme step in deposing and excommunicating the Emperor and that there were those who felt that such an action could not be justified, Gregory issued the following circular letter setting forth the reasons which had impelled him to abandon his attempts at conciliation and exert the authority of the Papacy.

SOURCE—Text in Bernheim, Vol. I, pp. 73–77.

GREGORY, Bishop, slave of the slaves of God, to all bishops, dukes, counts and others of the faithful, defenders of the Christian faith in the kingdom of the Germans, greeting and apostolic benediction.

We have heard that some of you are in doubt and perplexity about the excommunication which we have inflicted on the king. . . . Wherefore we have carefully set forth before the eyes and minds of all, as accurately as possible (our conscience is our witness), how we were led to excommunicate him; not so much, as it were with uplifted voice, publicly to proclaim the various causes (which alas! are but too well known), as to satisfy the minds of those, who think that we have drawn the spiritual sword

rashly and more on the promptings of our own mind than through fear of God or zeal for righteousness.

Formerly, when we were occupying the post of deacon, there reached us an evil and very discreditable account of the king's actions. But from consideration for the imperial dignity and reverence for his father and mother, as also from the hope and desire for his correction, we frequently admonished him by letters and envoys to desist from his wickedness, and, mindful of his noble birth and dignity, to order his life with behaviour befitting a king, and, if God permit, future Emperor. But since we in our unworthiness have been raised to the supreme pontificate, while his wickedness has increased with his advancing age, we have much more earnestly exhorted him in every way, arguing, entreating, rebuking, to amend his life—knowing that Almighty God would the more strictly require his soul at our hands, for that permission and authority to rebuke him had been given to us before all other men. He often sent us loyal salutations and letters . . . and in words has promised from day to day that he would most readily accept our warnings; but in fact and by the increase of his sins he has spurned them.

Meanwhile we summoned to repentance certain members of his court, through whose counsels and schemings he had defiled bishoprics and many monasteries with the simoniacal heresy, intruding, for money, wolves in place of shepherds; in order that, while amendment was possible, they should restore the property of the churches, which with sacrilegious hand they had obtained by this criminal commerce, to the venerable places to which it appertained, and that they themselves by heartfelt penitence should make satisfaction to God for the iniquity committed. But when we knew that they disregarded the grace afforded to them for fulfilling these duties and obstinately continued in their former wickedness, then, as was right, we separated them, as sacrilegious persons and as servants and members of the devil, from the communion and body of the whole church; and we admonished the king to dismiss them,

Since, from love of justice, you have made common cause with us and shared our peril in the struggle of Christian warfare, we have taken pains, with sincere affection, to inform you, beloved, of how the king, humbled to penitence, obtained the pardon of absolution and how the whole matter has developed since his entry into Italy till now.

As was arranged with the envoys, who were sent from you to us, we came into Lombardy about twenty days before the date on which one of the military chiefs was to meet us at the pass. We awaited the arrival of the escort that we might be able to cross to your land. But when the date had passed and we were informed that at this time on account of many difficulties—as indeed we readily believe—it was not possible to send an escort to meet us, nor had we any other means of making our way across to you, we were beset by no little anxiety as to what we had better do.

Meanwhile, however, we learned for certain that the king was coming. Before he entered Italy he sent forward suppliant envoys to us and promised to render satisfaction in all things to God, to St. Peter and to us. And he promised again to amend his life and maintain complete obedience, if only he might be considered worthy to obtain the grace of absolution and apostolic blessing from us. When we had long delayed this by many consultations and upbraided him severely for his evil deeds by all the messengers who passed between us, at last he came in person, with few attendants and with no air of hostility or defiance, to the town of Canossa, where we were waiting. And there he laid aside all royal state and for three days he remained at the gate of the castle, wretched, barefooted and clad in wool ; and he continued with much weeping to implore the aid and consolation of the apostolic mercy till he moved all who were there or who heard of it to such pity and compassion that they all interceded for him with many prayers and tears and were astonished at the unusual hardness of our mind. Some even exclaimed that we were

showing not the weighty severity of an apostle but the cruel ferocity of a tyrant.

At last, overcome by the persistence of his compunction and the urgent supplication of all present, in the end we loosed the bond of the anathema and admitted him to the grace of communion and received him into the bosom of holy mother Church, after taking securities of him as is written below. Of all this we have also received confirmation by the hands of the abbot of Cluny, of our daughters Matilda and the Countess Adelaide, and of other princes, bishops, and laymen, who seemed to us useful for this purpose.

Now that that is done, we desire at the first opportunity to cross to your country, that we may be able with God's help more thoroughly to set all in order for the peace of the church and the concord of the kingdom, as we have long desired to do. For we wish you, beloved, to know this with certainty—as you can gather from the securities undermentioned—that the whole matter is so undecided that both our coming to you and a unanimous opinion from you seem to be most necessary. Wherefore be ye all zealous to continue in that faith in which ye began and in the love of justice ; knowing that we are not otherwise bound to the king than by our verbal promise—as is my custom—that he might have hopes of us in matters in which, without peril of his soul or our own, we can help him either by justice or by mercy, to his own salvation and honour.

The oath of Henry, King of the Teutons.

On account of the complaints and criticism, now directed against me by the archbishops and bishops, abbots, dukes and counts and other princes of the kingdom of the Teutons and others who follow them in this same matter ; I, King Henry, will, within the period which the lord Pope Gregory shall fix, either do justice according to his decision or make peace according to his decision ; unless a definite impediment obstruct him or me ; and when that is removed

I will be prepared to carry out my undertaking. Further, if the lord Pope Gregory shall desire to go across the mountains or to other countries, he shall be safe, while going, returning or delaying anywhere, from all injury to life or limb, and from capture, by me or by those whom I can control. This shall apply to himself, and to those who shall be in his escort and suite, and to those who shall be sent by him or come to him from any country. Nor, with my consent, shall he encounter any obstruction, contrary to his honour. And if anyone shall obstruct him, in all good faith I will help him to the best of my power. So help me God and this sacred gospel.

Done at Canossa on 28 January, 1077, in the presence of the bishops, Humbert of Preneste and Gerald of Ostia, of the Roman cardinals, Peter of the title of St. Chrisogonus and Conon of the title of St. Anastasia, of the Roman deacons, Gregory and Bernard, and of the sub-deacon Humbert. On the part of the king were present the archbishop of Bremen, the bishops of Vercelli and Osnabrück, the abbot of Cluny and many noble men.

19. GREGORY VII'S SYNODAL DECREES OF NOVEMBER 19, 1078, AND MARCH 7, 1080

Gregory VII strenuously maintained his effort to purify the personnel of the clergy, who were regarded as worldly, unspiritual, assimilated to the laymen whom they were called to guide. The first step towards the reform of Christian society was the reform of the clergy, who needed to be more strictly disciplined than the laity. In particular, Gregory and other reformers insisted (1) *that ecclesiastical office must be given to suitable clergy and not sold for money, and* (2) *that the clergy, by being celibate, should be removed from the temptations of sex and of converting ecclesiastical property to the use of their families. On these points the reformers had long insisted, when Gregory went further and declared that in the investiture of clergy with their spiritual office by (usually unregenerate) laymen lay the root of much of the evil.*

(*a*)

SOURCE—Text in Bernheim, Vol. I, pp. 44–6. Mirbt, p. 151 (No. 291).

WHEREAS we have learned that investitures of churches are in many places conferred by lay persons, contrary to

the ordinances of the holy fathers, and that thence many troubles arise in the church whereby the Christian religion is degraded, we decree : that no clerk shall receive investiture of a bishopric or abbacy or church from the hand of an emperor or king or any lay person, male or female. And if he dare to do so, let him know that such investiture is annulled by the apostolic authority and that he himself is under sentence of excommunication until he shall make due reparation.

If any bishop shall sell prebends, archdeaconries, provostships or other ecclesiastical offices or appoint contrary to the ordinances of the holy fathers, he shall be suspended from his office. For it is right that as he received his bishopric *gratis*, so he should distribute the subordinate posts thereof *gratis*.

Appointments made in consideration of payment or of influence or accommodation by anyone for that purpose, or without the consent of clergy and people, demanded by canonical ordinances, and not confirmed by those to whom the right of consecration appertains, we adjudge to be annulled.

By apostolic authority we forbid laymen to be in possession of tithes, which canonical authority shows to have been granted for pious uses. And if any have received them from bishops or kings or any other persons, unless they have restored them to the Church, let them know that they are committing the crime of sacrilege and incurring the peril of eternal damnation.

If any bishop, because of bribery or influence, has permitted any of his priests, deacons or subdeacons to live unchastely or has tolerated marriages within the forbidden degrees in his diocese, or on hearing of the offence has not condemned it by the authority of his office, he shall be suspended from his office.

(*b*)

With regard to lay investiture Gregory went further in 1080 *and threatened excommunication not only to the*

recipient clergy, but also to the laymen who should invest. He also took steps to increase the control of the hierarchy over elections, at the expense of local magnates.

SOURCE—Text in Bernheim, Vol. I, p. 46. Mirbt, p. 153 (No. 294).

. . . And if any emperor, king, duke, marquis, count or any secular dignitary or person shall presume to confer investiture of bishoprics or other ecclesiastical office, let him know that he is bound by the bond of the same sentence. . . . Whenever, on the death of the pastor of any church, another is to be canonically instituted to the vacancy, at the instance of a bishop visitor, deputed by the apostolic see or the metropolitan,[1] the clergy and people, setting aside all worldly ambition, fear and favour, and subject to the approval of the apostolic see or of the metropolitan, shall elect their pastor according to God's will. And if any corrupted person shall presume to act otherwise, he shall gain nothing by the wrongful election and for the future shall have no power of election, but all power of election shall be at the discretion of the apostolic see or of the metropolitan.

20. THE SECOND DEPOSITION OF HENRY IV AND NOMINATION OF RUDOLF AS KING, MARCH 7, 1080

Gregory had remained neutral as between Henry and Rudolf for three years, when the envoys of both claimants to the German kingship appeared at the Lenten synod of 1080 in Rome. Henry's agents, confident in their king's recent successes in Germany, demanded the excommunication of Rudolf. The other side replied by producing evidence of Henry's insincerity and intrigues to prevent arbitration. Gregory at last made up his mind and delivered his judgement in the form of a solemn address to the Princes of the Apostles.

SOURCE—Text in Bernheim, Vol. I, pp. 99–101.

BLESSED Peter, prince of the apostles, and thou, blessed Paul, teacher of the gentiles, deign, I pray, to incline your ears to me and mercifully to hear me. . . . Ye know that

[1] Archbishop of the province.

it was not by my desire that I received holy orders ; and that unwillingly I crossed the alps with the lord Pope Gregory, and yet more unwillingly returned with my lord Pope Leo to your own particular church, in which as ever I have served you. Further, most unwillingly, with much grief, tears and mourning, and all unworthy, I was installed upon your throne. This I say, that I did not choose you, but ye chose me and laid upon me the grievous burden of your church. And because ye bade me go up upon a high mountain and cry aloud and denounce their sins to God's people and their wickednesses to the sons of the church, the members of the devil began to rise up against me and have dared to lay hands on me, even to the shedding of blood. . . .

Amongst them in particular Henry, whom they call king, the son of the Emperor Henry, has raised his heel against your church. He has made a conspiracy with many transalpine and Italian bishops and striven to subjugate that church to himself by casting me down. Your authority resisted and your power destroyed his arrogance. Confounded and humiliated he came to me in Lombardy and sought release from excommunication. Seeing him humiliated and receiving from him many promises of the amendment of his life, I restored him to communion only. But I did not restore him to his throne, from which in the Roman synod I had deposed him ; nor did I command that all who had sworn, or should in future swear, fealty to him (all of whom I had released in that same synod from their oath) should observe that fealty. Those favours I withheld in order that, according to Henry's promise to me on oath before two bishops, I might do justice and effect a settlement between him and those transalpine bishops and princes, who at the command of your church had resisted him. But the said ultramontane bishops and princes heard that he had not kept his promise to me. Wherefore, as it were despairing of him and without consulting me—you are my witnesses—they elected Rudolf, the duke, as their king. King Rudolf hastened to send an

envoy to me to inform me that under compulsion he had undertaken the control of the kingdom, but that he was prepared to obey me in every way. And to lend further weight to this assurance, he has constantly since then sent me similar messages and added an offer to confirm his promise by giving his son and the son of his adherent, Duke Berthold,[1] as hostages. Meanwhile Henry began to implore me to help him against the said Rudolf. I replied to him that I would willingly do so, after having heard the cases of both parties that I might know which had justice on his side. But he thought that he could prevail in his own strength and despised my answer. However, when he perceived that he could not do as he hoped, two bishops of his party, those of Verdun and Osnabrück, came to Rome and in the synod begged, on Henry's behalf, that I should judge his case. Rudolf's envoys also agreed to this. At length, by God's inspiration, as I believe, I decreed in that synod that a conference should be held in the transalpine lands so that there either peace should be established or it should be made clear which party had the better case. And because I thought that the party with the weaker case would object to the conference, at which justice would prevail, I excommunicated and bound with anathema the persons of all—whether king, duke, bishop, or other—who should by any means prevent the holding of the conference. But the said Henry, together with his supporters, not fearing the dangers of disobedience, which is the sin of idolatry, incurred excommunication by preventing the holding of the conference. Thus he brought on himself the bond of anathema, and caused a great multitude of Christian people to be slaughtered and churches to be destroyed, and brought desolation on almost the whole of the kingdom of the Teutons. Wherefore, trusting in the justice and mercy of God and of His most holy mother, Mary ever virgin, and armed with your authority, I subject to excommunication and bind with the chains of anathema the oft-named

[1] Berthold of Zähringen, Duke of Carinthia.

Henry, whom they call king, and all his supporters. And further, on behalf of Almighty God and of you, I deprive him of the kingdoms of the Teutons and of Italy and withdraw from him all power and regal dignity. I forbid any Christian to obey him as king. And all, who have sworn, or shall swear, allegiance to him as lord of the kingdom, I absolve from the fulfilment of their oath. . . . On your behalf I grant, permit and concede that Rudolf, whom the Teutons have elected as their king, shall rule and defend the realm of the Teutons in loyalty to you. And, relying on your support, I grant to all his faithful supporters absolution of all sins and your blessing in this life and the next. For as Henry, for his pride, his disobedience and his falsity, is justly cast down from the regal dignity, so to Rudolf, for his humility, his obedience and his truthfulness, are granted the power and dignity of the kingdom. . . .

21. GREGORY VII'S LETTER TO HERMANN OF METZ, MARCH 15, 1081

The great struggle between Gregory VII and Henry IV—which appeared to the Pope as a papal fight for righteousness against an Emperor hostile to the reformation of the church, while to the Emperor it no doubt appeared as a justified lay resistance to an overbearing and interfering Papacy—had gone against the Pope in Germany by 1080. *His proclamation dethroning Henry and proclaiming Rudolf German king and vassal of the Holy See had provoked resistance even amongst Henry's enemies. Henry was able to call ecclesiastical councils first at Mainz and then at Brixen, whither many Italian prelates came and at which Gregory was declared deposed. Gregory justified his policy in a letter to Hermann, bishop of Metz. The letter is a masterly exposition of the reforming and papalist point of view.*

SOURCE—Text in Mirbt, p. 154–158 (No. 297).

AGAINST those who foolishly say that the Emperor cannot be excommunicated by the Roman Pontiff.

Gregory, Bishop, slave of the slaves of God, to his beloved brother in Christ, Hermann, bishop of Metz, greeting and apostolic blessing.

We do not doubt that it is by the Divine operation that, as we hear, thou art prepared to undergo troubles and

dangers for the defence of the truth. . . . That thou shouldest have asked to be, as it were, aided by our writings and fortified against the folly of those, who with impious tongue babble that the authority of the holy and apostolic see does not suffice to excommunicate King Henry—a man who despises the Christian law, who destroys churches and the Empire and encourages and supports heretics—nor to absolve any man from his oath of fealty to Henry, seems to us hardly necessary in view of the many clear passages on this subject to be found in the pages of the sacred scriptures. . . . For, that we may quote a few sentences out of many, who does not know of the words of our Lord and Saviour Jesus Christ in the gospel, 'Thou art Peter, and upon this rock I will build My church; and the gates of hell shall not prevail against it. And I will give unto thee the keys of the kingdom of heaven; and whatsoever thou shalt bind on earth shall be bound in heaven; and whatsoever thou shalt loose on earth shall be loosed in heaven'?[1] Is an exception here made in favour of kings? Or are they not amongst the sheep, whom God's Son committed to blessed Peter? Who, I ask, in view of this universal commission of binding and loosing, considers himself exempt from the power of Peter, except perhaps that unhappy man who will not endure the yoke of the Lord, but submits himself to the service of the devil and refuses to be of the number of Christ's sheep. . . .

The holy fathers, both in general councils and in other of their writings and acts, have called the holy Roman church the universal mother, accepting and maintaining this institution of the divine will, this guarantee of a dispensation to the church, this privilege given and confirmed by the decree of Heaven above all to blessed Peter, the chief of the apostles. And as they accepted its statements in confirmation of the faith and exposition of holy religion, so they received its judgements; agreeing and, as it were, with one spirit and one voice consenting to this—that all greater cases and matters of outstanding import-

[1] Matthew xvi. 18, 19.

ance as well as judgements over all churches ought to be referred to it as to a mother and head, that from it there is no appeal, that its judgements ought not to be, and cannot be, withdrawn or reversed by any one. . . .

Should not an authority established by laymen, even by those ignorant of God, be subordinate to that authority which the providence of Almighty God established for His own honour and in His mercy gave to the world? For His Son is both firmly believed to be God and Man and also held to be the supreme priest, the head of all priests, seated at the right hand of the Father and ever interceding for us. Yet He despised a secular kingdom, whence arises the pride of the sons of this world, and of His own will sought the priesthood of the cross. But who does not know that kings and dukes are the successors of those, who, in ignorance of God, by pride, robbery, perfidy, homicide, in fact by almost every crime, at the instigation of the devil, the prince of this world, have striven with blind avarice and intolerable presumption to dominate their equals, their fellow-men? To whom can such men, when they try to drag down the priests of God to their ways, be more fitly compared than to him who is the head over all the sons of pride—he who tempted the supreme pontiff Himself, the head of all priests, the Son of the Most High, and promised Him all the kingdoms of the earth, saying, 'All these will I give Thee if Thou wilt fall down and worship me'?[1] Who will doubt that Christ's priests are to be held to be fathers and masters of kings and princes and of all the faithful? Is it not clearly pitiful folly if a son tries to subject his father to himself, or a disciple his master, or if any tries to bind with iniquitous bonds him by whom he believes that he can be bound or loosed not only on earth but also in heaven?

. . . Many pontiffs have excommunicated kings or emperors. For, if particular examples of princes be required, the blessed Pope Innocent excommunicated the Emperor Arcadius for consenting to the expulsion of St.

[1] Matthew iv. 9.

John Chrysostom from his see. Another Roman pontiff, Zachary, deposed a king of the Franks, not so much for his misdeeds as because he was unfit for so great power, and in his place set up Pepin, father of the Emperor Charles the Great, releasing all the Franks from the oath of fealty which they had taken to the former king. . . .

Further, every Christian king when he comes to die, as a pitiful suppliant begs the help of a priest, that he may escape hell's prison, that out of darkness he may attain to light, that by God's judgement he may be loosed from the bonds of his sins. What layman—not to mention what priest—in his last hour has ever implored the aid of an earthly king for the salvation of his soul? What king or emperor is able, in virtue of his office, to snatch any Christian from the power of the devil by Holy Baptism, to place him amongst the sons of God and fortify him with Holy Unction? And who of them by his own word can make the Body and Blood of the Lord—the greatest thing in the Christian religion? And to which of them has been granted the power to bind and loose in heaven and on earth?—whence it is clearly seen how greatly the priestly dignity excels in power. Or who of them can ordain a clerk in Holy Church, much less depose him for any fault? For in ecclesiastical matters a greater power is needed to depose than to ordain. For bishops can ordain other bishops, but cannot depose them without the authority of the apostolic see. Who, therefore, of even moderate understanding will doubt that priests are above kings? And if kings are to be judged for their sins by priests, by whom can they be more rightly judged than by the Roman pontiff?

In fact any good Christians are much more rightly considered kings than are bad princes. For the former rule themselves strictly, seeking God's glory, while the latter, enemies to themselves, and seeking their own interests not God's, tyrannically oppress others. The former are of the body of the true king, Christ; the latter, of the devil. . . .

Nor is it surprising that evil prelates are of one mind

with an evil king, whom they love and fear, since they have wrongfully obtained honours at his hand. These men simoniacally ordain whom they please and so sell God even for a paltry sum. For as the elect are indissolubly united to their Head, so the reprobate are persistently banded together with him who is the head of evil, especially against the good. Rather than denounce them, we ought to lament for them with tears and weeping, that Almighty God may release them from the snares of Satan, in which they are held captive, and after their perils may bring them some day at last to the knowledge of the truth.

We speak of those kings and emperors, who rule not for God but for themselves, being puffed up by worldly glory. But since it is our duty to exhort all, according to the rank and dignity which they enjoy, under God's guidance we endeavour to provide emperors, kings and other princes with the armour of humility, that they may be able to subdue the waves of the sea[1] and the storms of pride. For we know that earthly glory and the cares of this world usually tempt men to pride, especially rulers, so that neglecting humility and seeking their own glory they ever desire to lord it over their brothers. Wherefore it is well, especially for emperors and kings, that whenever their minds are puffed up and delight in their own glory, they should discover means to humble themselves and should perceive that the cause of their self-satisfaction should be feared above all things. Therefore let them observe how perilous and awful is the imperial or royal dignity, the holders of which are rarely saved, while even those who by God's mercy do come to salvation are not so honoured in Holy Church by the guidance of the Holy Spirit as are many of the poor. For from the beginning of the world till our own times in all true records we do not find seven emperors or kings whose lives were so conspicuous for piety or so adorned with the power of miracles as those of an innumerable multitude of those who despised this world, even though we believe many of them found mercy in the

[1] Ps. xciii.

presence of Almighty God. For what emperor or king was so distinguished for miracles as blessed Martin, Antony and Benedict, not to mention the apostles and martyrs? What emperor or king has raised the dead, healed lepers, given sight to the blind? Holy Church praises and venerates the Emperor Constantine of pious memory, Theodosius and Honorius, Charles and Lewis, as lovers of justice, propagators of the Christian religion, defenders of churches; but it does not declare them to have been glorified by miracles. Further, to how many kings or emperors has Holy Church ordered basilicas or altars to be dedicated, or masses to be celebrated in their honour?

Kings and other princes should fear lest, as they rejoice in their elevation over others in this life, so they will be the more subjected to eternal fires. As it is written: 'Mighty men shall be searched out mightily.'[1] For they will give account to God for as many men as they have had under their rule. And if it is no small labour for a devout person to guard his own soul, how great is the labour of those who rule over many thousands of souls?

Further, if the sentence of Holy Church severely punishes a sinner for killing one man, what of those who for worldly glory send many thousands to death? Such men sometimes with their lips say '*Mea culpa*,' because of a great slaughter, but in their hearts they rejoice at the extension of their 'fame'. They do not regret what they have done. Nor are they grieved at having sent their brethren down to Tartarus. As long as they do not repent with their whole heart nor agree to give up what they have acquired or kept through bloodshed, their repentance remains without the true fruit of penitence in God's eyes.

Therefore they should fear and often call to mind what we have said above, that out of the innumerable host of kings in all countries from the beginning of the world, very few are found to have been holy; whereas in one single see—the Roman—of bishops regularly succeeding each other, from the time of blessed Peter the Apostle, nearly

[1] Wisdom vi. 6.

one hundred are counted amongst the most holy. And why is this, unless because kings and princes, enticed by vain glory, prefer, as has been said, their own interests to spiritual issues, whereas the bishops of the church, despising vain glory, prefer God's will to earthly interests? The former quickly punish offences against themselves, but calmly tolerate those who sin against God. The latter readily pardon those who sin against themselves, but do not lightly forgive offenders against God. The former, too bent on earthly achievements, think little of spiritual ones; the latter, earnestly meditating on heavenly things, despise the things of earth. . . .

Wherefore let those, whom Holy Church, of her own will and careful counsel, not for transitory fame but for the salvation of many, calls to rule or dominion, humbly obey. . . . And so, living humbly and loving God and their neighbour as they ought, they may count on His mercy who said, 'Learn of Me, for I am meek and lowly of heart.'[1] If they have humbly followed His example, they will pass from a servile and transitory kingdom to an eternal kingdom of true liberty.

22. THE CONFERENCE AT CHÂLONS, 1107

An account of the conference is given by Suger, abbot of St. Denis, in his life of Louis the Fat, king of France (1108–1137). A new edition of this work, with French translation, will shortly be published by H. Waquet.

Pope Paschal II held a council at Guastalla in October, 1106, to which few German bishops came. Instead came Henry V's envoys, inviting Paschal to Germany. Paschal preferred, however, to negotiate on the friendly soil of France. There he received a warm welcome and was accompanied by King Philip I and his son, Louis, to Châlons, where he received the German ambassadors' statement of Henry's views on the investiture question.

SOURCE—Suger, chap. 9. Text also in Bernheim, Vol. II, pp. 16–17.

[THE king's envoys] were the Archbishop of Trier,[2] the Bishops of Halberstadt and Münster, several Counts and

[1] Matthew xi. 29.

[2] Bruno.

Duke Welf, who had his sword carried before him everywhere, a very corpulent man, astonishing for the length and breadth of his surface, and loud-mouthed. They were aggressive and seemed to have been sent rather to terrify than to reason. The only exception was the Archbishop of Trier, a man of elegance and wit, full of eloquence and wisdom, well versed in Gallic refinement. He made an able speech, offering the lord pope and the assembly greeting and service from the lord emperor, saving the rights of the realm, and then proceeded to deal with the object of his mission: 'This,' he said, 'is our lord the Emperor's reason for sending us here. In the times of your predecessors, holy and apostolic men, such as Gregory the Great and others, this right was admitted to belong to the Empire, namely that in all elections the procedure should be as follows. Before the election was made public, it was brought to the ears of the lord emperor; and, if he approved of the person, his assent was obtained before the election was finally made. Then the announcement was made in full assembly, according to the canons, on the petition of the people, by the election of the clergy, with the assent of the competent authority. The consecrated person freely and without simony then returned to the lord emperor to be invested with the *regalia* by the ring and staff, and did fealty and homage. And no wonder; for in no other way ought a man to enter on the tenure of cities and castles, markets, tolls and other appurtenances of the imperial dignity. If the lord pope will admit this, the monarchy and the church will be united in prosperity and peace to the honour of God.'

To this the lord pope after consultation replied by the mouth of his orator, the Bishop of Piacenza: 'The church, redeemed and made free by the precious blood of Jesus Christ, ought not in any way to be again brought into subjection. If the church cannot elect a prelate without consulting him [*i.e.*, the Emperor], then she is servilely subjected to him and Christ's death is made of no avail. To invest with the ring and staff, since such things pertain

to the altar, is a usurpation against God Himself. For priests to bind themselves by placing their hands, sanctified by the Body and Blood of the Lord, in the blood-stained hands of the swordsman, is to dishonour their orders and their sacred anointing.'

When the envoys had listened with indignation to these and other similar arguments, they burst into Teutonic rage . . . and said, 'Not here, but at Rome and with swords shall this question be settled. . . .' The pope came to Troyes and held the long-summoned general council in full state. Then, with much love for the French, for their good service, and with hatred and dread of the Teutons, he returned in safety to the see of St. Peter.

23. PASCHAL II'S RENUNCIATION OF *REGALIA*, FEBRUARY 12, 1111

The Emperor Henry V marched on Rome at the beginning of 1111. *He informed Pope Paschal II that he insisted on investing prelates with the temporalities* (regalia) *which they held of the Empire. Paschal now produced his radical proposal that bishops and abbots should renounce all temporalities, when there would be no excuse for the Emperor to demand the right of investiture. Henry, perceiving that the unworldly pope's suggestion was sure to meet with overwhelming opposition from the prelates affected, accepted it. On February* 12 *he entered St. Peter's at Rome for his coronation. He first read his renunciation of investiture. Then Paschal, in the name of the church, made the renunciation that follows.*

SOURCE—Text in Bernheim, Vol. II, pp. 26, 27.

PASCHALIS, Bishop, slave of the slaves of God, to his beloved son, Henry, and his successors for ever. It is ordained by the institutions of the divine law and laid down in the sacred canons that priests should not attend to secular business nor attend the secular court, except to rescue the condemned or to assist others who suffer injury. Indeed the apostle Paul says, 'If ye have secular judgements, set them to judge who are least esteemed in the church.'[1] But in your kingdom bishops and abbots are so occupied with secular business that they are obliged regularly to

[1] 1 Cor. vi. 6.

attend the courts and to perform military service; which activities indeed can hardly or not at all be discharged without rapine, sacrilege, arson or manslaughter. The ministers of the altar are thus made ministers of the government, since from kings they receive cities, duchies, marches, mints, manors and other appurtenances of the royal service. Hence has arisen the custom, unbearable for the church, of bishops-elect not receiving consecration unless they are first invested by the royal hand. Thereby the corruption of simoniacal heresy and ambition have sometimes so increased that episcopal sees have been occupied without any previous election [of the occupants]. Sometimes investiture has even been given in the lifetime of the [true] bishops. Our predecessors, Popes Gregory VII and Urban II, of blessed memory, were moved by these and many other evils arising from such investitures frequently to summon councils of bishops, to condemn these investitures by the lay hand, and to declare that those, who had thus obtained churches, should be deposed and the donors should be deprived of communion; according to that chapter of the apostolic canons which runs, 'If a bishop makes use of the secular power to obtain a church, he shall be deposed and cast out together with all his associates. . . .'[1]

Wherefore to you, dearest son, Henry, King, and now through our office Emperor of the Romans by the grace of God, and to the kingdom we command the surrender of those *regalia*, which clearly appertained to the kingdom in the time of Charles, Lewis, Henry and your other predecessors. We forbid and under pain of anathema prohibit any bishop or abbot, present or future, to assume these *regalia*, that is cities, duchies, marches, counties, mints, tolls, markets, advocacies of the kingdom, rights of hundredmen, manors, clearly belonging to the kingdom, with their

[1] Cf. C. J. C. *Decretum, Pars Prima, Dist.* LXIII, c. vii. Derived from the 3rd canon of the second council of Nicaea, 787, which quotes the 30th canon of the Apostolic Constitutions, a fourth-century collection of treatises on Christian discipline, worship, etc.

appurtenances ; also the armed forces and castles of the kingdom. Henceforth they shall not meddle with these *regalia* except by the will of the king. . . .

Further we decree that the churches remain free with their offerings and hereditary possessions, which clearly did not belong to the kingdom ; as on the day of your coronation you promised to the almighty Lord in the sight of all the church. . . .

24. PASCHAL II'S PERMISSION OF LAY INVESTITURE, APRIL 13, 1111

As Henry foresaw, Paschal's renunciation provoked a storm of protest, the prelates objecting to losing their temporalities, the lay magnates to losing control of churches. Thereupon the king's troops seized the pope, who was carried off and kept a prisoner for two months, at the end of which time he made a complete surrender to Henry's will. On April 13 pope and king again entered St. Peter's. Paschal handed Henry the following document and crowned him Emperor.

But Paschal's concession was not accepted by the leaders of the movement for ecclesiastical reform. He was threatened with withdrawal of obedience and browbeaten by stronger men not only into cancelling this concession but even into excommunicating Henry V.

SOURCE—Text in Bernheim, Vol. II, pp. 29, 30.

PASCHALIS, Bishop, slave of the slaves of God, to his most dear son in Christ, Henry, glorious King of the Teutons and by the grace of almighty God Emperor august of the Romans, greeting and apostolic blessing. . . . That prerogative which our predecessors granted and in documents of privileges confirmed to your predecessors, the catholic emperors, we also grant and in the document of this privilege confirm to your belovedness : that you shall freely confer investiture with the staff and ring on the bishops and abbots of your kingdom, who shall have been elected without violence and simony. After their investiture they shall receive consecration canonically from the bishop under whose authority they are. If anyone is elected by clergy and people without your assent, he shall not be consecrated by any one, unless first invested by you. . . . For your predecessors endowed the churches of

their realm with so many gifts of their *regalia* that the kingdom ought to be fortified especially by the support of the bishops and abbots, and popular disturbances, which often arise over elections, ought to be repressed by the royal majesty. . . .

25. THE CONCORDAT OF WORMS, SEPTEMBER 23, 1122

This agreement at last put an end to the mutual hostility of pope and emperor and put an end to the schism. Each power signed a diploma of concessions to the other. But the real gains lay with the papacy. Henry V surrendered an existing practice. Calixtus II only stated how much of existing practice he was prepared to countenance.

SOURCE—Text in Mirbt, pp. 161, 162 (No. 305). Also in Bernheim, Vol. II, pp. 57, 58.

(*a*) *Privilege of the Emperor*

IN the name of the Holy and Undivided Trinity.

I, Henry, by the grace of God Emperor august of the Romans, for the love of God and of the holy Roman church and of the lord Pope Calixtus, and for the salvation of my soul, do surrender to God and to God's holy apostles Peter and Paul and to the holy Catholic church all investiture by ring and staff, and do grant that there shall be canonical election and free consecration in all churches in my kingdom and empire. Those possessions and *regalia* of blessed Peter, which have been seized from the beginning of this conflict until to-day, whether in my father's time or in my own, and which I now hold, I restore to the said holy Roman church; those which I do not hold I will faithfully help to get restored. As to the possessions of all other churches and princes and persons, whether clerics or laymen, which have been lost in the said war, I will restore what I hold, in accordance with the counsel of the princes and the dictates of justice; what I do not hold I will faithfully help to get restored. And I grant true peace to the lord Pope Calixtus and to the holy Roman church and to all who are or have been its supporters. And in matters in which the holy Roman church shall demand aid I will

faithfully assist her ; and in those in which she shall make appeal to me I will do her due justice.

All this has been done with the consent and counsel of the princes, whose names are subscribed ; Adalbert, archbishop of Mainz ; F, archbishop of Köln ; H, bishop of Regensburg ; O, bishop of Bamberg ; B, bishop of Speyer ; H, of Augsburg ; G, of Utrecht ; O, of Konstanz ; E, abbot of Fulda ; Henry, duke ; Frederick, duke ; S, duke ; Bertolf, duke ; Margrave Teipold ; Margrave Engelbert ; Godfrey, Palatine ; Otto, Count Palatine ; Berengar, count.

I, Frederick, archbishop of Köln and archchancellor, have ratified this.

(*b*) *Privilege of the Pope*

I, Calixtus, Bishop, slave of the slaves of God, grant to thee, beloved son, Henry, by the grace of God Emperor august of the Romans, that elections of bishops and abbots of the Teutonic realm, who appertain to that realm, shall be made in thy presence, without simony or any violence ; on condition that, if any dispute shall arise, thou, with the counsel and judgement of the metropolitan and comprovincial bishops, shalt give thine assent and aid to the more discreet party. The elect shall receive the *regalia* from thee by the sceptre and shall perform what is lawfully due to thee on that account. In the other parts of the Empire[1] a consecrated prelate shall receive the *regalia* from thee by the sceptre within six months and shall perform what is lawfully due to thee on that account (all being excepted, however, which is known to appertain to the Roman church). In matters in which thou shalt make appeal to me and ask my aid, I will give thee due aid, in accordance with the duties of my office. I give true peace to thee and to all who are or have been thy supporters during this conflict.

[1] *i.e.*, in Burgundy and Italy.

III

THE CRUSADES

26. URBAN II'S SPEECH AT CLERMONT, NOVEMBER 27, 1095

The account here given is that of Robert the Monk, who is believed to have been the monk elected as Abbot of St. Rémi in Rheims in 1094. *His* Hierosolymitana expeditio *is not a very reliable source, as he did not himself go on crusade. But he is believed to have been present at the Council of Clermont and to have reported the Pope's appeal, as it remained in his memory. Few speeches have been so successful in their purposes as this. Urban was a Frenchman and delighted his audience by breaking out in their vernacular.*

SOURCE—Text in Recueil, Vol. III, p. 727.

'NATION of the Franks, nation beyond the mountains, nation chosen and beloved of God—as is shown by your many works—set apart from all peoples as well by the situation of your lands as by your catholic faith and your respect for Holy Church : to you our speech is directed and for you is our exhortation intended. We wish you to know how sad a cause has brought us to your country, what crisis in the fate of you and of all Christians has drawn us hither.

From the land of Jerusalem and the city of Constantinople a grievous tale has gone forth and often reached our ears, that the people of the kingdom of the Persians, a strange people, a people wholly alienated from God, *a generation that set not their heart aright and whose spirit was not stedfast with God*,[1] have invaded the lands of those Christians and depopulated them with sword, rapine and fire. Some of their captives they have led away to their

[1] Ps. lxxviii. 8.

own country, some they have cruelly slain. The churches of God they have either entirely destroyed or appropriated for the rites of their own religion. . . . The kingdom of the Greeks is now dismembered by them and territory that takes two months to cross is in their possession.

On whom is the task of avenging and recovering this loss incumbent, if not on you, on whom above other nations God has conferred outstanding glory in arms, greatness of soul, agility of body, the power to humble the *hairy scalp* [1] of those who resist you? Let the deeds of your ancestors move and incite you to manliness, the virtue and greatness of King Charles the Great, of his son Lewis, and of your other kings, who destroyed the kingdoms of the heathen and extended in them the bounds of Holy Church. Let our Lord and Saviour's holy Sepulchre, now possessed by unclean nations, specially move you; and the holy places, which are now defiled and polluted with their filth. Oh, bravest of soldiers, descendants of unconquered forefathers, be not degenerate, but recall the valour of your ancestors.

And if love of children, parents and wives holds you back, remember what the Lord says in the Gospel: *He that loveth father or mother more than Me is not worthy of Me.*[2] *Everyone that hath forsaken house, or father, or mother, or wife, or children, or lands, for My name's sake, shall receive an hundredfold, and shall inherit eternal life.*[3] Let no possession hold you back, no care for your family. For this land which you inhabit, shut in on all sides by the sea and surrounded by mountain ranges, is overfilled by your numbers. It does not abound in wealth. It supplies scarcely food enough for those who farm it. Hence it is that you fight and devour each other, that you wage wars and often perish by mutual blows. Let hatreds cease among you, let your quarrels end, let wars have an end, let all strife and dissension slumber. Take the road to the holy Sepulchre, capture that land from the evil nation and subject it to yourselves. That land was given by God

[1] Ps. lxviii. 21. [2] Matt. x. 37. [3] Matt. xix. 29.

to the children of Israel as a possession, and, as the Scripture says, *it floweth with milk and honey*.[1]

Jerusalem is the centre of the earth; its land fruitful above others, like another paradise of delights. The Redeemer of the human race honoured it by coming thither, adorned it by His sojourn, hallowed it by His passion, redeemed it by His death, glorified it by His burial. This royal city, placed at the centre of the world, is now held captive by her enemies and is made by men ignorant of God to minister to heathen worship. She seeks and desires to be freed, and ceases not to implore your aid. . . . Therefore undertake this journey for the remission of your sins, assured of the imperishable glory of the kingdom of heaven.'

When Pope Urban said these and many similar things in his urbane oration, he so harmonized the emotions of all present that they cried out, 'It is the will of God! It is the will of God!'

27. ANNA COMNENA ON THE CRUSADERS, 1097

The Imperial Princess Anna Comnena, a woman of high literary culture, wrote a history of the greatness and achievements of her father, the Emperor Alexius I. In Book X of that work there is an interesting description of the arrival of the crusaders at Constantinople and of their dealings with the Emperor. The Princess had a very low opinion of some of them. I am indebted, for the extracts that follow, to Miss E. A. S. Dawes for her kind permission to use her translation of the Alexiad.

SOURCE—Translation of Greek Text in *Alexiad*, pp. 258–268.

BUT when the Emperor urged him [Godfrey de Bouillon] to cross the straits of the Propontis, he let one day pass after another . . . ; the truth was that he was awaiting the arrival of Bohemund and the rest of the Counts. For although Peter undertook this great journey originally only to worship at the Holy Sepulchre, yet the rest of the Counts, and especially Bohemund, who cherished an old grudge against the Emperor, were seeking an opportunity of taking

[1] Exod. iii. 8.

their vengeance on him for that brilliant victory he had gained over Bohemund at Larissa. The other Counts agreed to Bohemund's plan, . . . that . . . in reality their object was to dethrone the Emperor and to capture the capital. . . .

The Emperor sent a few of his generals with their troops, to advise, nay even to compel, Godfrey to cross the straits. Directly the Latins caught sight of them . . . they betook themselves to battle. . . . As the imperial troops fought very bravely, the Latins turned their backs. In consequence, Godfrey . . . went to the Emperor and swore the oath which was required of him, that whatever towns, countries or forts he managed to take which had formerly belonged to the Roman Empire, he would deliver up to the Governor expressly sent by the Emperor. After he had taken this oath, and received a large sum of money, he was invited to the Emperor's hearth and table, and feasted luxuriously, and afterwards crossed the straits. . . .

[Then] came another innumerable, heterogeneous crowd, collected from nearly all the Frankish countries, with their leaders, kings, dukes, counts and even bishops. . . . I cannot detail the names of the leaders. For my speech is paralysed partly because I cannot articulate these strange names which are so unpronounceable, and partly because of the number of them. . . .

The Emperor sent for Bohemund and requested him to take the customary oath of the Latins. And he, mindful of his own position, namely, that he was not descended from illustrious ancestors, nor had a great supply of money, and for this reason not even many troops, . . . and being by nature ready to swear falsely, yielded readily to the Emperor's wish. . . . For by nature the man was a rogue and ready for any eventuality; in roguery and courage he was far superior to all the Latins who came through then, as he was inferior to them in forces and money. . . .

The next day the Emperor summoned Bohemund and all the Counts. To them he discoursed of the things likely

to befall them on their journey, and gave them useful advice; he also instructed them in the Turks' usual methods of warfare. . . . After he had in this way somewhat softened their savage behaviour by dint of money and advice, . . . he suggested their crossing into Asia. Isangeles [1] he liked especially because of his superior wisdom and genuine sincerity and purity of life . . ; for he 'shone' amidst all the Latins 'as the sun amidst the stars of heaven.' . . . He [Alexius] opened, so to say, the doors of his soul to him and enjoined him to be ever on the watch against Bohemund's wickedness. . . . Isangeles replied to the Emperor, 'Bohemund has acquired perjury and treachery as a species of ancestral heritage, and it would be a miracle if he kept his oath. However, I will endeavour as far as in me lies always to carry out your orders. . . .' And he went away to rejoin the whole Frankish army.

28. BOHEMUND AND THE GENOESE AT ANTIOCH, 1098

Antioch fell to the Crusaders on June 3, 1098, owing, as Bohemund maintained, to treachery by some of its defenders, who betrayed the city to him. He accordingly claimed to rule the city, as its capturer. Over this he fell foul of the Emperor Alexius and Count Raymond of Toulouse, who upheld the Emperor's authority.

(a) *Charter of Bohemund to the Genoese at Antioch, July 14, 1098*

SOURCE—Text in Hagenmayer, p. 155.

IN the name of the Father and of the Son and of the Holy Ghost.

This is the charter of gift, which I, Bohemund, son of Robert Guiscard, Duke of Apulia, have had made and confirmed. I, Bohemund, of my good purpose and ready will, grant as a perpetual possession to all the Genoese in the city of Antioch first the church of St. John, which is in the street leading straight to the basilica of St. Peter,

[1] The Count of St. Gilles, Raymond of Toulouse.

together with the warehouse [1] and cistern and thirty houses which are in the square beside the said church, with all their appurtenances, free of all claims and customs. . . .

(*b*) *Pact of the Genoese with Bohemund, Antioch, July* 14, 1098

SOURCE—Text in Hagenmayer, p. 156.

This is the convention, which the burgesses [2] of Genoa, Anselmus Rusacherius, [6 other names], have made with the lord Bohemund in return for the grant that he has made to them in Antioch and his gift to all the men of Genoa ; namely that the aforesaid and all others, who shall be in the city of Antioch or in a place whence they can assist, will assist in holding and defending the city against all who may attack it, and in supporting those within the city who have no supplies and those without according to their need ; always excepting the Count of St. Gilles ;[3] and if the Count shall try to seize [the city], we will make proposals for conciliation as we think best, and if our efforts are fruitless, we will assist neither party.

29. THE CAPTURE OF JERUSALEM, JUNE 7–JULY 15, 1099

The account given below is taken from the oldest and most reliable account of the first crusade, the Gesta Francorum et aliorum Hierosolimitanorum. *The author's name is unknown. But it is clear that he was an eye-witness of nearly all that he describes and that his book was written by* 1101. *He accompanied Bohemund on the crusade till the capture of Antioch, and then proceeded to Jerusalem.*

SOURCE—Text in Anon., pp. 195 *et seq.*

EXULTING with joy we reached the city of Jerusalem on Tuesday, June 6, and we besieged it in a wonderful manner. Robert of Normandy besieged it on the northern side, near the church of St. Stephen, the first martyr, who was there stoned for Christ's name. Next to him was Robert, Count

[1] *Fondicus, i.e.*, a large building used as a warehouse and exchange, together with an open space for the sale of goods.

[2] *Boni homines.*

[3] Raymond of Toulouse.

of Flanders. Duke Godfrey and Tancred carried on the siege on the west. The Count of St. Gilles operated from the south, on Mount Sion, near the church of St. Mary, the Lord's mother, where the Lord supped with His disciples. . . .

During the siege we were unable to find any bread to buy for about the space of ten days, until a messenger came from our ships ;[1] also we were afflicted by great thirst, so much so that in fear and terror we had to water our horses and other animals six miles away. The fountain of Siloam, at the foot of Mount Sion, sustained us, but the water was sold among us at a high price. . . . We sewed up skins of oxen and buffaloes in which we brought the water six miles. The water we drank from such receptacles was fetid, and what with foul water and barley bread we daily suffered great affliction and distress. Moreover the Saracens hid near all the springs and wells and ambushed our men, killing and mutilating them and driving off the animals into their dens and caverns.

Then our leaders planned to attack the city with machines, in order to enter it and adore the sepulchre of our Saviour. They made two wooden towers and many other machines. . . . Day and night on the fourth and fifth days of the week [2] we vigorously attacked the city on all sides ; but before we made our assault the bishops and priests persuaded all by their preaching and exhortation that a procession should be made round Jerusalem to God's honour, faithfully accompanied by prayers, alms and fasting. Early on the sixth day we attacked the city on all sides and could do nothing against it. We were all surprised and alarmed. Then, at the approach of the hour at which our Lord Jesus Christ deigned to undergo the passion of the cross for us, our knights in one of the towers fought bravely, amongst them Duke Godfrey and his brother, Count Eustace. One of our knights, Letholdus

[1] The news came on June 17 that a Genoese fleet had arrived at Jaffa.

[2] Wednesday and Thursday, July 13 and 14.

by name, climbed on to the wall of the city. When he reached the top, all the defenders of the city quickly fled along the walls and through the city. Our men followed and pursued them, killing and hacking, as far as the temple of Solomon, and there there was such a slaughter that our men were up to their ankles in the enemy's blood. . . .

The emir who commanded the tower of David surrendered to the Count [of St. Gilles] and opened the gate where pilgrims used to pay tribute. Entering the city, our pilgrims pursued and killed the Saracens up to the temple of Solomon. There the Saracens assembled and resisted fiercely all day, so that the whole temple flowed with their blood. At last the pagans were overcome and our men seized many men and women in the temple, killing them or keeping them alive as they saw fit. On the roof of the temple there was a great crowd of pagans of both sexes, to whom Tancred and Gaston de Beert[1] gave their banners.[2] Then the crusaders scattered throughout the city, seizing gold and silver, horses and mules, and houses full of all sorts of goods. Afterwards our men went rejoicing and weeping for joy to adore the sepulchre of our Saviour Jesus and there discharged their debt to Him. . . .

On the eighth day after the capture of the city they elected Duke Godfrey prince of the city, to fight the pagans and protect the Christians. Also, on the day of St. Peter in chains,[3] they elected as Patriarch a most wise and honourable man, named Arnulf. The city was captured by the Christians on Friday, July 15.

30. THE TREATY OF THE CRUSADERS WITH VENICE, APRIL, 1201

On the advice of Pope Innocent III, the French magnates mentioned below applied to the Venetian government for supply and transport for their Crusade. The treaty, as here quoted, is in the form of a statement by the Doge of the respective duties of the crusaders and of the Venetian government. The Doge, very wisely in view of the unpunctuality of medieval men, laid down precise conditions as to the dates of payment

[1] *i.e.*, de Béarn. [2] As a sign of protection. [3] August 1.

and of the use of the Venetian fleet; conditions of which he subsequently made good use.

SOURCE—Text in Tafel and Thomas, Vol. I, pp. 362–8.

THE pact of the lord Baldwin, Count of Flanders, and Theobald, Count of Troyes, and Louis, Count of Blois, made with the lord Enrico Dandolo, Duke of Venice, for the voyage to the Holy Land.

. . . The aforesaid [1] have begged us to supply you with shipping for the transportation of 4,500 knights well armed, as many horses, and 9,000 men-at-arms—if this number of men-at-arms shall not be forthcoming, the sum mentioned below shall none the less be due to us—also 20,000 infantry well armed, together with rations for one year, which we have promised to supply.[2] . . . And the aforesaid shipping shall be supplied, to the honour of God and of blessed Mark the Evangelist and of the Christian faith, from the feast of the holy Apostles Peter and Paul [3] next year, for one year, if necessary, unless it shall be delayed by our and your united wills. In addition, of our own will, we shall supply fifty armed galleys, which likewise shall be in the service of the Lord for one year. . . .

In return for which you shall pay us 85,000 marks of pure silver . . . ; of which we shall receive 15,000 marks between now and the Kalends of August, and 10,000 more by the feast of All Saints, and 10,000 more by the Purification of St. Mary. Lastly we shall receive the remaining 50,000 in the course of the month of April next coming; and in the course of that same month both the men and the horses shall be at Venice, ready to sail, with their equipment complete; and they shall go and remain in the service of the Lord for one year, if necessary. . . . Nor is it to be omitted that you shall not procure victuals from Cremona onwards towards Venice, nor from Bologna, Imola and Faenza onwards towards Venice, except with our permission. And between us and you there shall be a firm

[1] *i.e.*, the envoys of the French magnates.

[2] Here follow details of the amount of rations to be supplied for man and beast.

[3] June 29.

alliance and agreement to treat each other well. And if, with God's help, we shall, either together or separately, make any acquisitions, whether by conquest or by treaty, we shall have the half of all such gains and you the other half.

. . . Six men shall be chosen by either party, so that, if any trouble shall arise between our people and yours, which God avert, harmony and redress shall be obtained by their efforts; and this they shall carry out in good faith on their oath. . . .

Done at Venice, on the Rialto, in the palace of the said lord Duke; given by the hand of Andrea Corrado, priest and chancellor of our court, the year of our Lord's Incarnation 1201, April.

31. THE TREATY OF THE CRUSADERS WITH VENICE, MARCH, 1204

The revolution in Constantinople in February, 1204, which resulted in the deposition of the last Angeli and the elevation of Alexius Ducas (Murzuphlus) to the throne, was the reaction of Greek indignation against the pecuniary demands of the crusaders. The latter were faced with the alternatives either of departure from Constantinople without the means of conducting a successful crusade and without any material reward for their expedition, or of capturing the city and helping themselves to whatever they needed. They chose the latter course. And the document here quoted is the treaty drawn up between the Doge and the crusading leaders to regulate the distribution of the loot and the disposition of power, spiritual and temporal, when the Byzantine authorities should have been overthrown. It was the basis of the organization of the Latin empire of the East. It will be observed that the Venetians did not come off badly.

SOURCE—Text in Tafel and Thomas, Vol. I, pp. 444–448.

WE, Enrico Dandolo, by God's grace Duke of Venetia, Dalmatia and Croatia, for our part; with you, the illustrious and eminent princes, Boniface, Marquis of Montferrat, and Baldwin, Count of Flanders and Hainault, and Louis, Count of Blois and Clermont, and Hugh of St. Pol, for your part; for the establishment of union and concord between us and the avoidance of all ground for offence; with His help who is our peace and has made of both one,

and to His praise and glory—we have decided to observe this arrangement, to which both parties are bound by oath.

First, we will attack the city by armed force in Christ's name ; and if, with the help of the divine power, we shall enter the city, we will remain under the orders of those who are chosen to command the army. . . .

All the property, which shall be found by anyone in the city, shall be collected and deposited in the place that shall be selected. Of such property three parts shall be delivered to us and to the Venetians on account of that property which the late Emperor Alexius was bound to pay to us and you. The fourth part you shall keep until our accounts are adjusted. If anything is left over, it shall be divided equally between us and you. . . .

We and the men of Venice shall have throughout the empire, freely and indisputably, all the privileges and possessions, which we have been accustomed to have in spirituals and temporals. . . .

And six men shall be elected on our side and six on yours, who shall be bound on oath to choose from the army that person whom they believe to be the most wise and competent and best fitted to set the land and the empire in order to the honour of God and of the holy Roman Church and Empire. If the election is unanimous, we will accept him as Emperor who is thus elected. If the votes are equal, lots shall be cast ; and we will accept him on whom the lot falls. If the votes are unequal, we will accept him whom the majority elect. If votes are given to more than two candidates, let him be Emperor who has the most votes.

The Emperor shall have the whole of the fourth part of the empire, as acquired, with the palaces of Blachernae [1] and Bucoleon.[2] The remaining three-quarters shall be divided equally between us and you.

[1] The palace in the north-western corner of the city, on the Golden Horn, to which the Emperors had transferred their residence in the twelfth century.

[2] The old palace at the eastern extremity of the city, by the Sea of Marmora.

It is agreed that the clergy belonging to that party, from which the Emperor is not elected, shall have power to control the church of Saint Sophia and to elect the patriarch. . . .

Further, an oath shall be given, both on our side and on yours, that we will remain here for a year from the last day of the present month of March, to support the empire and the Emperor. . . . Thereafter all who remain in the empire shall be bound to the Emperor by oath, according to the sound and reasonable custom. All those who then remain in the empire shall swear to hold fast and firmly to the divisions and agreements which shall have been made.

It is also agreed that twelve men or more shall be elected on our side and on yours, who shall on oath distribute the fees and honours among the barons and shall assign the amount of service which the barons shall do to the Emperor and the empire, according to their judgement and as they shall see fit.

It is also agreed that no man of any people, which is at war with us or our successors or the people of Venice, shall be received in the empire until that war is ended.

Both parties are bound to endeavour in good faith to obtain the Pope's confirmation of this treaty: in order that, if anyone is tempted to violate this treaty, he shall incur the bond of excommunication. . . .

32. INNOCENT III'S PROCLAMATION OF A CRUSADE, NOVEMBER, 1215

The culmination of Innocent III's pontificate was the Lateran Council of 1215. The culmination of that council was the approval of Innocent's plans for a great crusade to retrieve the failures of the Christian arms in Syria during the previous thirty years.

SOURCE—Text in Hefele, Vol. V, p. 1390. Translation in Henderson.

. . . We will and command patriarchs, archbishops, bishops, abbots, and others who have the cure of souls, earnestly to preach the cross to those committed to them, and to urge (in the Name of the Father, the Son and the Holy Ghost, the One True Eternal God) on kings, dukes,

princes, marquises, counts, barons and other magnates, as well as on the communities of cities and towns, that those who do not go personally to the aid of the Holy Land, shall, for the remission of their sins and in proportion to their resources, provide an adequate number of soldiers, with the necessary expenses for three years. . . .

We will that not only they who provide their own ships shall participate in this remission, but also they who have ships built for this undertaking. . . .

Lest we should seem to be imposing on men's shoulders grievous and intolerable burdens, which we will not touch with our finger, like those who talk, but do not act : behold, out of what we have been able to save after paying for necessary and moderate expenses, we grant and give for this undertaking 30,000 pounds, and also a ship which we give to the crusaders of Rome and its neighbourhood. We will assign for this purpose also the 3,000 marks of silver which we still have of the alms of the faithful. The rest has been duly distributed to Alberic, Patriarch of Jerusalem, of blessed memory, and the Masters of the Temple and the Hospital, for the needs and purposes of the said land.

Further . . . with the general approval of the council, we ordain that all clergy, both dignified and inferior, shall pay the twentieth part of their ecclesiastical revenue for three years for the aid of the Holy Land, to those appointed for the purpose by apostolic provision ; excepting only certain religious, rightly exempt from this taxation, and those also who have assumed or shall assume the sign of the cross and set out in person. We and our brothers, the cardinals of the holy Roman Church, will pay a full tenth. And let them all know that they are bound to carry this out faithfully under pain of excommunication. . . .

. . . Crusaders shall be exempt from imposts and tallages and other burdens, when the duration of the expedition shall exceed one year. Also, from their assumption of the cross we have taken their persons and goods under the protection of blessed Peter and of ourself, ordaining that these shall rest under the defence of arch-

bishops, bishops and all prelates of the Church and also of special protectors appointed for the purpose ; so that the property may rest whole and untouched until certain knowledge of their death or return be obtained. If anyone shall presume to contravene this order, he shall be restrained by ecclesiastical censure.

If any crusaders are bound on oath to the payment of interest, we command that their creditors be compelled, under the same penalty, to remit the oath given to them and to refrain from exacting interest. . . .

As for Jews, we order that they be compelled by the secular power to remit interest ; and until they do so, all intercourse shall be denied to them by all the faithful of Christ, under pain of excommunication. . . .

Further, we excommunicate and anathematize those false and impious Christians, who, acting against Christ Himself and the Christian people, supply the Saracens with arms and iron and wood for constructing galleys. We ordain that those who sell them galleys or ships, or who navigate pirate vessels of the Saracens, or who give them advice or assistance with engines or other things, to the damage of the Holy Land, shall be punished by the confiscation of these their things and shall be the slaves of whoever shall take them. . . .

Although tournaments have been universally forbidden at various councils under specific penalties ; [1] yet, because at the present time the cause of the cross is much impeded by them, we absolutely forbid their being held for the next three years, under pain of excommunication.

And since it is most necessary for the achievement of this undertaking that the princes of the Christian people should keep the peace among themselves ; on the demand of the holy universal synod, we ordain that peace be observed throughout the whole Christian world for at least four years, and that disputants be induced by the prelates of churches to maintain inviolably complete peace and a stable truce. . . .

[1] Cf. p. 96, § 20.

By the power of binding and loosing, which God has conferred on us, though unworthy, we accord to all, who join in this undertaking in person and at their own expense, complete pardon of their sins, provided that they shall truly repent of them and confess them with their mouths. . . .

33. THE TREATY OF JAFFA, FEBRUARY 4, 1229

The story of Frederick II's Crusade is one of diplomatic intrigue between Pope Gregory IX, the Emperor, and Malek el Kamil, Sultan of Egypt. The latter had been opposed to his brother, Moadhin, Sultan of Damascus, and therefore prepared to support Frederick in his effort to recover Jerusalem. But on Moadhin's death El Kamil seized the southern territories of Damascus; and when Frederick arrived in Palestine, he found El Kamil not so accommodating as he had expected. Frederick was unable to secure the terms which he demanded and hastily accepted those offered by the Sultan. Despite the refusal of Daoud, son and heir of Moadhin, to recognize the treaty, Frederick advanced to Jerusalem and crowned himself in the church of the Holy Sepulchre on March 18. He left Palestine on May 1 and hurried back to Italy.

The first document given below consists of clauses from the treaty, as reported to the Pope by Gerold, Patriarch of Jerusalem, together with the Patriarch's comments, which are given in round brackets. The second document is a quotation from a letter of Hermann von Salza, Grand Master of the Teutonic Knights, also to the Pope, but giving a somewhat different view of the treaty.

(*a*)

SOURCE—Text in Huillard-Bréholles, Vol. III, p. 86.

1. THE Sultan delivers Jerusalem to the Emperor and his officials, that he may dispose of it or deal with it according to his will.

(It is to be noted that the grant is to the Emperor or his officials and that there is no mention of the Church or Christianity or pilgrims; and so it appears that according to the document of the truce no one can fortify or hold the city except the Emperor or his officials. Also that the Sultan has no legal power to make this grant, for by it a wrong will be done to the Sultan of Damascus, who possessed the city and would not accept the truce nor ratify the said grant.)

2. The Emperor will not occupy or infringe Geemelaza, which is the temple of Solomon, or the temple of the Lord, or anything contained within their area and precincts ; nor shall he allow any Frank, of whatever nation he may be, to enter them ; but they shall for ever be in the hands and power of the Saracens, who shall have them for prayer and the proclamation of their law, without any restriction or dispute ; and the keys of the gates, which are in the circuit of the area, shall remain in the hands of those who reside there for the upkeep and care of the area.

(This is a manifest iniquity which needs no commentary. It is a treaty between Christ and Belial. It makes clear that the recitation of the psalm, 'O God, the heathen are come,'[1] ought to cease, since the infidels thus pollute the holy temple. Further, since none of the villages in the immediate neighbourhood of the city are restored but remain in the hands of the pagans, and since the number of Saracens coming to the temple of the Lord for worship will be far greater than the number of Christians coming to the Sepulchre, how will the Christians be able to exercise their supremacy even for ten years without dispute and danger to life, when the Saracens, as is aforesaid, retain their strength ?)

3. No Saracen shall be forbidden to go freely to Bethlehem on pilgrimage.

4. If any Frank shall have a firm faith in the majesty and dignity of the temple of the Lord and shall desire to enter it for the purpose of prayer, he shall be allowed to do so. But if he does not believe in the majesty and dignity of that temple, he is not to be permitted to enter any part of its area.

(It is surprising that no Christian is permitted to enter even the precincts of either temple, unless he believes as do the Saracens. It is also surprising that they can freely enter Bethlehem, a centre of our worship, whereas we shall not be able, and are forbidden, to enter the temple of the Lord or even its precincts in the name and faith of Jesus

[1] Ps. lxxix.

Christ, unless they are first satisfied that we share their belief about the temple. Further, the temple of the Lord was formerly the seat of a bishopric, which is now a patriarchate; yet now the seat of Mahomet is therein.)

5. If in Jerusalem a Saracen shall do any injury to another Saracen, he shall be cited before a Saracen court.

(Observe that they, like the Christians, have jurisdiction within the city.)

6. The Emperor will give no assistance to any Frank, whoever he may be, or any Saracen in prosecuting a conflict or war against Saracens, whoever they may be, for the duration of this truce; and if war arises, he will not support anyone nor ally himself with anyone who is taking part in the struggle; he will not adhere to them in any way nor help with supplies or men.

(How can he reconcile this promise here given to the Sultan with that which he made to the Church about maintaining a thousand knights for two years and fifty galleys and for whose non-fulfilment he was excommunicated?)

7. The Emperor shall restrain all who shall propose to make any attack on the lands of the Sultan Malek el Kamil, and shall use his authority to forbid his army and subjects to make such an attack.

(If this clause be carefully noted, and even if he had done no other iniquity, not only God, Whom his oath specially touches, but the whole world ought to rise against him, because herein he has committed a great and manifest injury to all Christendom, to the disgrace and dishonour of the imperial excellence and the shame of all Christendom.)

8. (Not the actual clause, but its gist.) If any Franks propose to violate the pacts, agreements or matters mentioned in this truce, the Emperor is under obligation to the Sultan to restrain his subjects and troops from their intention.

9. Tripoli and its territory, Crach, Castelblanco, Tortosa Margato and Antioch and all within them . . . shall be left in their present state; and the Emperor shall prohibit his subjects and troops and those resident in his territories,

who go thither, whether they be Franks of the country or not, from giving help to the lords of the said lands.

(*b*)

SOURCE—Text in Huillard-Bréholles, Vol. III, p. 91.

. . . The Sultan of Babylon and his brother, the Sultan called Sceraph,[1] with an innumerable host, were encamped at Gaza, less than a day's march from us; and the Sultan of Damascus, with a large army, was at Neapolis,[2] also a day's march from us. And after negotiations about the restoration of the Holy Land, the Lord Jesus Christ, with His wonted providence, ordained that the Sultan restored to the lord Emperor and to the Christians the holy city of Jerusalem with its appurtenances; except that the monastery, which is called the temple of the Lord, was to be in the keeping of the Saracens, because they had long been accustomed to pray there; and that they should have free access to it and exit from it for purposes of prayer; and that Christians wishing to pray there should likewise have free access to it. They also restored the village called St. George's and the hamlets on either side of the road as far as Jerusalem; as well as Bethlehem and its appurtenances and the hamlets between it and Jerusalem. He also restored Nazareth and the hamlets between it and Acre. Also the castle of Tyro,[3] with all its appurtenances, villages and lands. Also the city of Sidon with all the neighbouring plain and the lands which the Christians peaceably held in time of peace. And we are allowed by the treaty to rebuild the walls and towers of Jerusalem at the will of the Christians, as well as the fortresses of Joppa and Cæsarea and our new stronghold in the mountains, Montfort,[4] which we have begun to fortify this year. And it seems likely that had the lord Emperor crossed the sea with the goodwill and support

[1] Malek-el-Ascraf, Sultan of Aleppo.
[2] Nablous, due north of Jerusalem.
[3] At Emmaus.
[4] Belonging to the Teutonic Order and lying north-east of Acre.

of the Roman Church, the settlement over the Holy Land would have been much more successful and advantageous.

Further, neither the said Sultan of Babylon nor any of his subjects is to construct any fortresses or buildings or to strengthen existing ones during the truce, which has been established between the lord Emperor and him for ten years. Also the prisoners who remained in captivity after the loss of Damietta, and those captured in the recent campaigns, are to be restored on both sides. And the Emperor proposes to go up to Jerusalem with all the people and there to be crowned to the honour of the King of all kings—for so he has been advised to do by many—and to attend with all diligence to the rebuilding of Jerusalem. It is hardly possible to describe how great was the rejoicing of the whole people at this restoration. Brother Leonard came to us at Joppa on March 7 and brought us the news from Europe, which was worse and other than we could have wished. But the Archbishop of Reggio, who has been sent to your dignity's feet, will fully inform your discretion of how and in what way we have remained with the lord Emperor; and when you have been fully informed of what was our motive and what the result achieved, we shall be prepared to obey whatever your dignity orders us in the future about these and other matters.

IV

THE PAPACY AND THE EMPIRE IN THE TWELFTH CENTURY

34. ANACLETUS II'S GRANT OF THE KINGDOM OF SICILY, SEPTEMBER 27, 1130

Roger the Great, Duke of Apulia and Calabria and Count of Sicily, saw in the disputed election to the Papacy in 1130 *an opportunity for the conversion of his dominions into a kingdom. One of the claimants, Anacletus II, bought Roger's alliance by investing him with the coveted royal crown. The ultimately successful claimant, Innocent II, subsequently recognized Roger's kingship in* 1139.

SOURCE—Text in Watterich, Vol. II, p. 193.

MOST beloved son in Christ, Roger, by the grace of God deservedly noble Duke of Apulia; because your father Roger, of glorious memory . . . performed innumerable services for the church of our predecessors, Urban and Paschal, of venerable memory, Roman pontiffs; and your mother, of happy memory, nobly following the example of her husband, liberally honoured and sustained the said church of God; and you, who by the divine providence exceed the other princes of Italy in wisdom and power, have diligently honoured and served our predecessors . . . we concede, grant and authorize to you, to your son, Roger, to your other sons who may be established in the kingship by your ordinance, and to their heirs, the crown of the kingdom of Sicily, Calabria, Apulia and all the land which we and our predecessors have given and conceded to your predecessors, the Dukes of Apulia, namely Robert

Guiscard and his son, Robert.[1] . . . And we have established Sicily as the head of the kingdom.[2] Further we authorize and concede that you and your heirs shall be anointed as kings and crowned at the customary times by the Archbishops of your land, whom you shall choose, in the presence of other Bishops, whom you shall choose. And we grant, concede and confirm to you, your sons and your heirs, to have and possess in perpetuity, all the concessions, gifts and agreements which our predecessors conceded, gave and delivered to your predecessors, Robert Guiscard, Robert [1] his son, William, Duke of Apulia, and you. And we give and authorize to you and your heirs the principality of Capua with all its fiefs, as held by the princes of the Capuans at present and in the past. And we grant and confirm to you the lordship of Naples with its appurtenances, and the support of the men of Benevento against your enemies. And, acceding to your petition, we grant to the Archbishop of Palermo, and to his successors, and to the church of Palermo, the power to consecrate three of the bishops of Sicily, namely those of Syracuse, Girgenti and Mazzara or Catania, on condition that the aforesaid churches suffer no diminution in their dioceses and possessions at the hands of the Archbishop or church of Palermo. We reserve the other two bishoprics for our further consideration. We have made all these concessions . . . on condition that you and your sons do homage and swear fealty to us and our successors in a safe place, convenient to us and you. . . . And you and your heirs [shall pay] a tribute of six hundred *scyphati* [3] which you shall remit annually to the Roman Church on demand. . . .

Given at Benevento by the hand of Saxo, cardinal priest of the holy Roman Church, September 27, 1130, in the first year of the pontificate of Pope Anacletus II.

[1] Really Roger, Duke of Apulia and Calabria, 1085–1111.
[2] *i.e.*, the kingdom should take its name from Sicily.
[3] Gold coins of Byzantine origin.

35. THE TREATY OF CONSTANCE, 1153

At the Diet of Würzburg in October, 1152, it was decided that the Emperor should make his expedition to Rome in the following year. Frederick then sent envoys, whose names are given below, to Rome, where they concluded this treaty early in 1153. The treaty was submitted to a Diet at Constance and there solemnly ratified by Frederick and a number of bishops and magnates of the Empire on March 23, 1153.

Frederick's predecessor, Conrad III, had made a treaty in 1149 with the Byzantine Emperor, Manuel I, against the Norman 'usurper' of Sicily, Roger II. Roger determined to secure the Papal alliance, and Sicilian troops helped Eugenius to effect a return to Rome, although the Roman Senate continued to maintain its authority over the city. But Eugenius and Roger fell out over the relations of the Sicilian kingdom to the Papacy, and in 1151 Conrad found in the Pope a supporter of his plans for co-operation with the Greeks in South Italy. Frederick, refusing to countenance the recovery of any territory in Italy by Manuel, abandoned the policy of the Byzantine alliance and was at pains to detach Eugenius also from the Greeks. A hint of the new policy appears in the use of the term 'King', instead of 'Emperor' or 'Basileus', to describe Manuel in this treaty.

SOURCE—Text in Watterich, Vol. II, p. 318.

THE convention proposed by Eugenius. In the name of the Lord, Amen. This is a copy of the treaty and convention between the lord Pope Eugenius and the lord King of the Romans, Frederick; effected by means of the cardinals Gregory of St. Maria in Trastevere, Ubaldo of St. Praxed, Bernard of St. Clement, Octavian of St. Cecilia, Roland of St. Mark, Gregory of St. Angelo, Guido of St. Maria in porticu, and Bruno Abbot of Chiaravalle, on the part of the Pope; and by the Bishops, Anselm of Havelberg and Hermann of Constance, and the Counts, Ulrich of Lenzberg, Guido Werra and Guido of Biandrate, on the part of the King.

The lord King will cause one of his officials to swear on the soul of the king—and he himself will with his own hand give his faithful promise to the legate of the lord Pope—that the king will make no truce nor peace with the Romans or with Roger of Sicily, without the free consent and goodwill of the Roman Church and of the lord Pope Eugenius

or of his successors, who shall be willing to keep the terms of this treaty with the King Frederick ; that he will use the resources of the kingdom to reduce the Romans to obedience to the lord Pope and the Roman Church, as was their position a century ago. As the devoted and peculiar protector of the holy Roman Church, he will preserve and defend the honour of the Papacy and the *regalia* of St. Peter, which she now possesses, to the utmost of his power. Those which she does not now possess, he will do his best to recover ; and when recovered to defend. He will concede no territory to the king of the Greeks on this side of the sea. If the latter should invade the country, he will use all the resources of the kingdom to drive him out.

All these undertakings he will observe and carry out honestly and with goodwill.

The lord Pope, on the word of the apostolic authority, together with the aforesaid cardinals, in the presence of the said envoys of the lord King, has promised and will observe the following. He will honour the king as the beloved son of St. Peter. When the king comes for the fulfilment of his coronation, he will crown him Emperor without difficulty or obstacle, as far as he is concerned. He will help to maintain, increase and augment the honour of the kingdom as his office demands. If any shall insolently presume to spurn or subvert the jurisdiction and honour of the kingdom, the lord Pope, when informed, will summon them canonically to make amends. And if, despite the apostolic summons, they scorn to do justice to the king according to the royal law and honour, they shall be bound with the sentence of excommunication. He will not concede any territory on this side of the sea to the king of the Greeks ; and, if the latter dares to invade the country, the lord Pope will use the resources of St. Peter to drive him out.

All these undertakings shall be observed by both parties honestly and with goodwill, unless altered by free and common consent on both sides.

36. OTTO OF FREISING'S ACCOUNT OF THE LOMBARD TOWNS IN 1154

Otto, Bishop of Freising (1138–1158), *of the Austrian house of Babenberg and uncle to Frederick Barbarossa, is one of the best authorities for the history of the twelfth century. He wrote a history of the world, and also a record of the opening years of Frederick's reign, from which the extract below is taken. As a stranger and a feudalist from the aristocratic north, he is well fitted to show us the striking development of urban independence and* bourgeois *government in Lombardy of the twelfth century.*

SOURCE—O. and R., p. 116.

[THE Lombards] gave up their barbarian ferocity, probably because they married natives of Italy and begat sons who derived from their mothers' blood, as well as from the character of the country and the climate, something of the Roman culture and shrewdness. Thus they retain the elegance of Latin speech and refinement of manners. In the government of their cities and the management of public affairs they also reproduce the skill of the ancient Romans. Also they are so devoted to liberty that, in order to escape the abuse of power, they prefer to be ruled by the authority of consuls rather than of princes. Three classes are recognized among them, namely *capitanei*,[1] *vavassores*[1] and the *plebs*. To repress class pride the said consuls are elected not from one but from all the classes; and lest the consuls should yield to lust for power, they are changed almost every year.

And so almost the whole country has become divided amongst the cities, each of which compels the inhabitants of its district to remain under its rule; and in this large area hardly a single noble or prominent man can be found who does not submit to the authority of his city. . . . And that they shall not lack means to control their neighbours, they stoop to confer the belt of knighthood and honourable rank on youths of lowly condition or indiscriminately on artisans engaged in contemptible mechanical industries, whom other nations exclude like the pest from

[1] *i.e.*, greater and lesser nobility.

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liberal and honourable occupations. Hence it comes that they surpass the other cities of the world in wealth and power. They owe this not only, as is said above, to their own industry, but also to the absence of their rulers,[1] who usually remain across the Alps. In one respect, however, they forget their honourable past and retain the characteristics of barbarian scum; for, although they boast that they live according to laws, they do not obey the laws. For they seldom or never receive their ruler respectfully, although they ought to show him the willing reverence of subjects. Nor do they obediently carry out the orders which he has issued in full accordance with the laws, unless they are made to feel his authority by the presence of his great army. . . .

Amongst the cities of this people Milan now holds the pre-eminence. . . . It is considered greater than the other cities not only because of its size and its wealth of brave men, but also because it has brought under its sway two neighbouring cities, Como and Lodi. Further, as often happens in this fleeting world through the seductions of good fortune, Milan, elated by success, has been so puffed up with pride that she not only dares to attack all her neighbours, but also she has fearlessly presumed recently to brave the offended majesty of the prince.[1] . . .

There is an ancient custom, that has lasted from the translation of the Roman Empire to the Franks until our own times, that whenever the kings propose to visit Italy, they should send some competent members of the household in advance to visit each city and town and to demand the sums due to the royal treasury, which are called by the inhabitants *fodrum*. The result is that, on the arrival of the prince, many cities, towns and castles, which have ventured either entirely to refuse this just claim or to pay it only in part, are razed to the ground and provide posterity with a memorial of their insolence.

Another right, which is said to be derived from ancient custom, is that on the prince's arrival in Italy all dignities

[1] *i.e.*, the Emperors.

and offices should be surrendered and all should be done at his command according to the provisions of the law and the decisions of jurisconsults. Even Italian judges are said to accord him such eminent jurisdiction that they maintain that of all necessities produced by the country everything required for his army should be supplied for the royal use, scarcely even excepting the oxen and seed needed for the cultivation of the soil.

37. THE TREATY OF BENEVENTO, BETWEEN ADRIAN IV AND WILLIAM I OF SICILY, JUNE, 1156

After Barbarossa's departure from Italy, Adrian IV was in a precarious position. Rome was closed to him and William of Sicily threatened his territories. Adrian hesitated between the policies of alliance with Barbarossa and with William. But William's military successes against the rebels in his own kingdom and against the Byzantine forces induced the Pope to make a treaty with him. It will be seen that the Pope got good terms, though William retained some powers rarely held by secular princes. On Barbarossa the treaty had an exasperating effect. By the treaty of Constance Barbarossa had promised not to make a separate peace with the King of Sicily, and he expected the Pope not to do so. Further the treaty was a denial of the Empire's rights over Sicily and an assertion that Sicily was a Papal fief.

SOURCE—Text in Watterich, Vol. II, p. 352.

IN the name of the Lord God eternal and our Saviour Jesus Christ. Amen. To the lord Adrian, by the grace of God supreme Pontiff of the holy Roman Church, his most dear lord and reverend father, and to his successors, William, by the same grace King of Sicily, of the duchy of Apulia and the principality of Capua. . . .

[We agree] that what is here written shall be observed on those matters concerning which the dispute arose between your majesty and ourselves.

Concerning appeals: in Apulia and Calabria and other lands adjoining Apulia, if a clerk make complaint against another clerk on an ecclesiastical issue and cannot obtain a settlement from his chapter or bishop or archbishop or other ecclesiastical person of his province, he may freely

appeal to the Roman Church, if he wish. Translation may be made between churches, if it is necessary or expedient for the Church to move anyone from one church to another and if you or your successors grant permission. The Roman Church shall freely have the rights of consecration and visitation in all our kingdom. The Roman Church shall hold councils in any of the cities of Apulia or Calabria or the parts adjoining Apulia ; except the cities in which we ourselves or our heirs shall be at the time, unless we or our heirs consent. The Roman Church shall freely have the right to send legates into Apulia, Calabria, [etc.] ; but those who shall be delegated by the Roman Church for this purpose shall not waste the resources of the church. And in Sicily the Roman Church shall have the rights of consecration and visitation . . . and the other rights which it has in the other parts of our kingdom ; except those of appeal and legation, which shall not be exercised there except at the request of us and our heirs.

Concerning the churches and monasteries of our land, about which the Roman Church put forward a claim : you and your successors shall have the same rights in them as you have in other churches under our authority, which customarily receive consecrations and benedictions from the Roman Church ; and these churches shall pay the due and established tribute to the Roman See.

Concerning elections : The clergy shall agree upon a suitable person and keep their decision secret until they report it to our excellency. And after the person has been nominated to our highness, if he is not a traitor nor an enemy to us or our heirs, nor is repugnant to our magnificence, nor is under any other impediment because of which we ought to withhold our assent, we will give our assent [to his election].

You shall grant to us and to Duke Roger, our son, and to our heirs, who shall succeed to the kingship by our will and ordinance, the kingdom of Sicily, the duchy of Apulia and the principality of Capua, with all their appurtenances, Naples, Salerno and Amalfi, with their appurtenances,

Marsia and what we rightly have beyond Marsia, and the other fiefs which we hold and which were lawfully held by our predecessors as vassals of the most holy Roman Church. And you will help to support [us] in honour against all men.

For all which considerations we have sworn fealty to you and your successors and the holy Roman Church and done liege homage to you, as is contained in two similar capitularies, of which one, sealed with our golden seal, remains with your majesty and the other, sealed with your seal, with us. And we agree that we and our heirs will pay an annual tribute of 600 *scyphati* for Apulia and Calabria and 500 for Marsia, or the equivalent in gold or silver, to the Roman Church; unless any impediment intervenes, on the cessation of which the tribute shall be paid in full. . . .

Given at Benevento by the hand of Maio, grand Admiral of Admirals,[1] June, 1156. . . .

38. THE ERECTION OF AUSTRIA INTO A DUCHY, SEPTEMBER 17, 1156

The settlement of the dispute over the Bavarian duchy is a striking illustration of Frederick Barbarossa's conciliatory methods towards the great German magnates. After four years of refusal to relinquish the duchy, Henry Jasomirgott at last came to the Diet held at Regensburg in September, 1156, surrendered Bavaria and received not only a duchy of Austria, but an enviable list of privileges, to which other German princes soon aspired. It has been suggested, but not proved, that some of the clauses (given here in round brackets) are later interpolations.

SOURCE—Text in A. and B., p. 311 (No. 150). Translation in Henderson.

IN the name of the holy and undivided Trinity. Frederick, by the divine clemency Emperor of the Romans, Augustus. . . .

All faithful subjects, present and future, of Christ and our Empire shall know that . . . in the great court held at Regensburg on the Nativity of St. Mary,[2] . . . we have thus determined the dispute over the duchy of Bavaria,

[1] *Amiratus amiratorum.* The word is derived from the Arabic *Emir.*

[2] For date see *Book of Common Prayer.*

which was long maintained between our beloved uncle, Henry, Duke of Austria, and our beloved nephew, Henry, Duke of Saxony. The Duke of Austria has resigned the duchy of Bavaria to us, and we have forthwith granted it as a fief to the Duke of Saxony. The Duke of Bavaria has resigned the march of Austria to us with all its jurisdiction and the fiefs which the Marquis Leopold formerly held of the duchy of Bavaria. But lest the honour and glory of our beloved uncle should seem thus to be anywise diminished, we have, . . . with the approval of all the princes, converted the march of Austria into a duchy and granted it as a fief, with full jurisdiction, to our said uncle, Henry, and his most noble wife, Theodora. And we provide by this perpetual law that they and their children, whether sons or daughters, shall have and hold this duchy of Austria from the realm by hereditary right. If they die without children (they are free to confer the duchy on whomever they wish). We also decree that no person, great or small, shall presume to exercise any jurisdiction in the duchy without the permission of the duke. (The Duke of Austria shall from his duchy owe no other service to the Empire beyond that of coming, when summoned, to the courts which the Emperor shall hold in Bavaria ; and he shall owe no military service except such as the Emperor may demand against the kingdoms and the lands near to Austria). . . .

Given at Regensburg, September 17. . . .

39. THE SURRENDER OF MILAN TO BARBAROSSA, SEPTEMBER, 1158

In 1158 *Frederick Barbarossa led his armies over the Alps and appeared in Lombardy determined to re-assert the imperial authority. He besieged and quickly reduced Milan, to whose citizens he gave very reasonable terms. He then proceeded to hold his famous Diet of the Empire at Roncaglia in November.*

SOURCE—O. and R., pp. 221 *et seq.* (Rahewin, Book III, c. xlvii).

IN the name of our Lord Jesus Christ. This is the treaty by which the Milanese shall return to and remain in the favour of the lord Emperor.

They shall not prevent the rebuilding of the cities of Como and Lodi to the honour of the Empire, nor attack nor destroy them henceforth, nor levy *fodrum*[1] or purveyance or any kind of exaction throughout their territory; so that these cities may be free, as the Milanese are free from them; saving the ecclesiastical authority of the Archbishop and church of Milan.

All the Milanese together, from the least to the greatest, from the age of fourteen to that of seventy, shall in good faith swear and maintain fealty to the lord Emperor.

They shall build an imperial palace to the honour of the lord Emperor. . . .

They shall pay at stated times the money promised for amendment of the injuries to the lord Emperor, the lady Empress and the court; namely a third part within thirty days, a third before the octave of St. Martin,[2] and the remaining third by the octave of Epiphany. . . .[3] The amount of money promised is 9,000 marks of silver or gold, or currency of that value and price.

For the execution and completion of these articles in good faith they shall give three hundred hostages (nobles, knights and plebeians). . . . Those, to whose care in Italy the hostages shall be confided, shall swear, in the presence of Milanese appointed for the purpose, that, on the expiry of the period mentioned and on receiving a demand from the Milanese, they will freely restore the hostages within eight days, so that the Milanese shall have them safely, provided that these articles have been observed. And three princes of Germany shall give their right hands that if any hostages are taken beyond the mountains, they shall likewise be faithfully restored.

The existing consuls shall, by the authority and permission of the lord Emperor, continue in office till 1 February next and take an oath to the lord Emperor for their consulship. Future consuls shall be elected by the people

[1] *i.e.*, the right to make requisitions for the Emperor or his officials and troops. See p. 78.

[2] *i.e.*, November 18.

[3] *i.e.*, January 13.

and confirmed by the Emperor himself. Half of them shall come to him, so long as he is in Lombardy. If he is elsewhere, two of them shall come to him, and take the oath, and receive the office of their consulship from the lord Emperor on behalf of themselves and their colleagues, who shall take the same oath to the lord Emperor before the assembly of their city. . . .

If the lord Emperor's legates, sent to Italy, come to the city, they shall reside in the palace and determine the pleas submitted to them to the honour of the Empire. . . .

The commune of Milan shall surrender the *regalia*, such as coining money, levying tolls, granting safe-conducts, levying harbour dues, appointing counts, and any other similar matters, and shall not interfere with them. . . .

40. THE DIET OF RONCAGLIA, NOVEMBER, 1158

The Diet of Roncaglia marks the summit of Barbarossa's power in Italy. In the presence of a great assembly of Italian bishops, magnates, citizens and jurists, he caused a statement to be made of the imperial prerogatives, which should provide a public law for his kingdom of Italy. The jurists, imbued with the principles of the Roman law, declared in favour of a system of autocracy. To their pronouncements of Roman law was added a long statement of German principles of feudal law. Rahewin describes shortly the Diet's agreement to a statement of the regalia, *to the Emperor's right to appoint civic magistrates and to the prohibition of private war. He then gives in full (c. x) the statement of the feudal law, which owing to its length and technicality is here omitted.*

SOURCE—O. and R., pp. 239–241 (Rahewin, Book IV, cc. vi–ix).

GUIDED by the divine counsel, Frederick appointed over each district a judge, chosen not from the city concerned, but from his court or from other cities, effecting this interchange lest, if a citizen were elevated over his fellow-citizens, he might be easily diverted from justice by favour or hatred. And out of the great multitude of litigants there remained hardly one who did not rejoice to admit that he had obtained a complete legal victory

or at any rate justice or a satisfactory arrangement with his adversary.

Then he diligently enquired into the royal jurisdiction and the *regalia*, which had long been lost to the Empire by the insolence of usurpers or the neglect of the kings. When they could find no excuse for this state of affairs, the bishops, nobles and cities with one voice and one consent resigned the *regalia* into the prince's hands, the Milanese being the first to make the surrender. When asked what was the law in the matter, they declared that the *regalia* covered duchies, marquisates, counties, consulships,[1] coinage, tolls, *fodrum*,[2] the imposition of customs and harbour dues and charges for free passage, mills, fish-ponds, bridges, any profits arising from the flow of rivers, and annual taxation levied not only on the land but also on their own persons.

When all these things had been adjudged to his treasury, Frederick showed such generosity towards their former possessors, that whoever could prove by lawful documents that he was in possession of any of these rights by royal gift was allowed to remain in permanent possession thereof by the imperial bounty and as the representative of the crown. But from those who had made inroads on the *regalia* by no right but only by usurpation, the public revenue received annually about 30,000 talents.

Further he received the agreement and consent of all to this point, that in every city podestas, consuls and other magistrates ought to be appointed by him with the assent of the people; and that these should be loyal and upright and competent to maintain the prince's honour and worthily to do justice to the citizens and the district.

For the faithful and complete acceptance and observance of all these points every city took an oath and gave sureties at the will of the Emperor. Then a general peace was sworn, to the effect that no city should attack another nor any man attack a fellow-man, except at the command of the prince.

[1] *i.e.*, the right to appoint to these offices. [2] See p. 83.

41. THE RENEWED QUARREL OF ADRIAN IV AND BARBAROSSA, JULY (?), 1159

Frederick's attempts to enforce the decrees of Roncaglia soon met with desperate resistance from some of the Lombard towns, led by Milan and Brescia. Frederick prepared for a war in Lombardy and sent for reinforcements from Germany. These arrived in the summer of 1159, *led by Henry the Lion, accompanied by the Empress and Duke Welf VI, the Emperor's uncle, upon whom Frederick had conferred the lands of the Countess Matilda.*

But Frederick also found that his efforts to revive loyalty to the Empire were provoking the resistance of the Pope. He had procured the election of the young Guido of Biandrate, a sub-deacon of Rome, to the vacant Archbishopric of Ravenna. Adrian refused his confirmation of the election, on the ground that Guido was too valuable to the Roman church to be spared. The Pope also wrote forbidding Frederick, under pain of interdict, to act as judge in the quarrel between Bergamo and Brescia, and complaining of the imperial officers' exactions in papal territory. This letter was delivered by a man of mean appearance and sordid clothing, who disappeared as soon as he had presented it. Frederick's rising anger is shown by his reply, in which he addressed the Pope patronizingly as Tu, *instead of* Vos. *The rumour that Adrian was forming an alliance with the rebellious Lombard towns added to the difficulty of the situation. Cardinal Henry and Eberhard, Bishop of Bamberg, laboured to bring their respective masters to a peaceful settlement, and Adrian consented to send four cardinals to negotiate with Frederick.*

SOURCE—Text in O. and R., pp. 276–7 (Rahewin, Book IV, c. xxxiv). Watterich, Vol. II, pp. 369–70.

THERE were present at this conference the legates of the apostolic see, namely Octavian, cardinal priest of the title of St. Cecilia ; Henry, of the title of Saints Nereus and Achilleus ; William, cardinal deacon, formerly archdeacon of Pavia ; and Guido of Crema, cardinal deacon ; envoys of Pope Adrian. The causes of their coming as well as of that of the envoys of the senate and people of Rome are contained in the following copy of a letter from the venerable Eberhard, Bishop of Bamberg, which runs thus :

To the most reverend father and lord Eberhard, Archbishop of the church of Salzburg, Eberhard, by God's grace Bishop of Bamberg. . . . The grievous times seem to be coming [1] and soon strife will arise between the

[1] 2 Tim. iii. 1.

throne and the altar. The cardinals, the lord Octavian and the lord William, formerly archdeacon of Pavia, were sent by the lord Pope to the lord Emperor, and, after beginning mildly and pacifically, they put forward most exorbitant demands. Thus—Envoys are not to be sent to the city by the Emperor without the knowledge of the Pope, since every governmental office there and all the *regalia* belong to St. Peter. *Fodrum* [1] must not be collected from the domains of the Pope, except at the time of a coronation. The bishops of Italy should give the lord Emperor an oath of fealty only, without homage; nor should the Emperor's envoys have the right of being entertained in episcopal palaces. The possessions of the Roman Church are to be restored, namely Tivoli, Ferrara, Massa, Figheruolo, all the land of the Countess Matilda, all the land from Acquapendente to Rome, the duchy of Spoleto, the islands of Sardinia and Corsica. The lord Emperor repeatedly offered to submit these points to trial and conciliation, if they were willing to do justice and receive it. But they were prepared only to receive justice and not to do it, for this reason, that they could not bind the lord Pope and stand by a decision. The lord Emperor in return put forward many grievances—That the treaty, which had been made with him with solemn assurances that relations should not be resumed with the Greeks, with Sicily or with the Romans without the consent of both parties, had been broken.[2] That cardinals freely traversed the kingdom without the imperial permission, made their way into episcopal palaces held of the king, and oppressed the churches of God. That unlawful appeals were heard. And many other matters. The Pope, with the Emperor's approval, was informed of these matters by an envoy and by letters from the aforesaid cardinals. He was asked to send other cardinals to join with his previous envoys and the magnates of the court

[1] See p. 83.

[2] The treaty of Constance, 1153. See p. 75. It will be observed that in the treaty Eugenius had not committed himself to this extent.

in effecting a settlement; but he refused. And so, owing to our sins, the long-desired formula of peace and concord has not been found. While these negotiations were proceeding, the envoys of the Romans arrived to ask for a treaty of peace, and were well received and sent back with honour. At the request of the cardinals the lord Emperor is sending ambassadors to the lord Pope and to the city; to make peace in the first place with the former, if he be willing; but if not, with the senate and people of Rome. All is well with the lord Emperor, who is awaiting the arrival of the lady Empress, the Duke of Bavaria and Saxony, and other magnates and military forces, while he keeps some of the chief citizens of Milan and Brescia in chains. Farewell.

42. THE DISPUTED PAPAL ELECTION OF SEPTEMBER, 1159

At the Papal election of September, 1159, the electors were divided on a question of policy, the majority being in favour of Adrian IV's policy of alliance with Sicily and the Lombard towns in opposition to Frederick I's revival of Imperial power in Italy. A small minority headed by the cardinals Octavian and Guido of Crema wished to co-operate with the Emperor. Below are given (a) one of the letters issued by Cardinal Roland after his elevation to the Papacy as Alexander III, and (b) a letter from his opponent, Octavian, who took the title of Victor IV. The two accounts cannot be reconciled. That of Victor can be dismissed as untrue, if only because it is quite irreconcilable with accounts given by his own ardent supporters. The account which seems best to represent the truth of the election is that given as (c). On the whole affair see the discussion in Hefele, Vol. V, pp. 916–927.

(a)

SOURCE—Text in O. & R., pp. 299–303 (Rahewin, Book IV, c. lxi). Cf. the very similar letter to the Archbishop of Genoa, in Watterich, Vol. II, pp. 455–8.

ALEXANDER, Bishop, slave of the slaves of God, to his venerable brother, Gerard, the Bishop, and to his beloved the sons, the canons, of the church of Bologna, and to doctors of law and other masters dwelling at Bologna, greeting and apostolic benediction.

The eternal and unchangeable providence of the Creator has willed that the holy and immaculate church from its first foundation should be so ordered and governed, that there should be one pastor and ruler, to whom all the prelates of the churches should willingly be subject, and that the members, as united to their head, should hold to him in a wonderful unity and in no way be divided from him. . . . And now three false brethren, who went out from us, but were not of us,[1] fashioning themselves into angels of light, whereas they are of Satan,[2] are trying to tear and rend asunder the seamless robe of Christ, which He, in the person of the psalmist, begs and prays may be delivered from lions and the sword and the power of the dog.[3] Nevertheless Christ, the Founder and Head of the Church, is watchfully guarding her as His only bride ; and though the ship of the sainted fisherman is often tossed about, He does not permit it to suffer shipwreck.

When our predecessor, Pope Adrian, of holy memory, paid the debt of nature on September 1, while we were at Anagni, and passed from earth to heaven, from this vale to the heights, at the call of the Lord, he was brought to Rome and honourably buried according to custom in the church of St. Peter on September 4 in the presence of nearly all his brethren. Then all the brethren, including ourself, began earnestly to proceed according to the custom of the church to the election of a pontiff of the said church. We spent three days in discussion and at last all except three agreed with heart and mind to choose us, who are insufficient for this burden and wholly unworthy of this supreme dignity. They then elected us to be Roman pontiff, with the assent of the clergy and people. The three dissentients were Octavian, John of St. Martin and Guido of Crema. God is our witness that we are inventing no falsehood but telling the plain truth.

The two, John and Guido, mentioned above supported the third, Octavian, and obstinately insisted on his election.

According to the custom of the church Odo, the prior

[1] 1 John ii. 19. [2] 2 Cor. xi. 14. [3] Ps. xxii. 20.

of the deacons, had placed the mantle upon us, despite our reluctance and resistance due to our knowledge of our insufficiency. Whereupon Octavian was so overcome with rage and insolence that he violently seized the mantle from our neck with his own hands and carried it off amid a great uproar. But one of the senators, who had seen this outrage, moved by the Holy Spirit, snatched the mantle from the hands of the demented man. Then Octavian turned with furious mien on one of his chaplains, who had come prepared with instructions for the occasion, shouting and gesticulating to him to fetch at once the mantle, which he had secretly brought with him. This mantle was hurriedly produced, and Octavian, removing his cap and bowing his head, boldly assumed the mantle with the help of the chaplain and another cleric. And since there was no one else he himself had to assist the chaplain and the cleric in the task. And we believe that it was by the judgement of Heaven that that part of the mantle which should have covered him in front was covering his backside ; which aroused the laughter of many who saw it. He desperately tried to remedy this, but as the top of the mantle was inside out he could not find it and therefore tied the ribbons round his neck so that anyhow the mantle seemed to be slung on him. And this happened because, as he was of crooked mind and warped intention, so he assumed the mantle the wrong way on in testimony of his condemnation. Then the doors of the church, which had been closed, were opened and bands of armed men, whom, as subsequently appeared, he had bribed with money, rushed in with drawn swords and much noise. Thus that poisonous pest [*i.e.* Octavian], having no cardinal bishops on his side, was supported by a troop of armed knights.

The brethren, confronted unexpectedly with this unprecedented outrage and fearing that they might be killed by the hired soldiery, withdrew with us into the fortress of the church. And there for nine days, with the support of some senators, whom he had corrupted with money, he

had us carefully guarded day and night by armed men to prevent our departure. But as the people continuously protested and violently denounced the senators for this great impiety, we were carried off from that fortress and some senators, who were bribed, placed us in closer and securer confinement in Trastevere. There we spent three days. But when the people would no longer tolerate this corruption and wickedness, the senators came with the nobles and people, and honourably conducted us and our brethren through the city, with much cheering and applause and ringing of bells, as we passed. Thus at last we were delivered from the violence of our persecutor and restored to liberty.

And the next day, Sunday, there were assembled at Ninfa, not far from the city, our venerable brothers, the Bishops Gregory of Sabina, Ubaldo of Ostia, Bernard [of Porto], Walter [of Albano], Julius [of Palestrina], and B., and cardinals, abbots, priors, judges, lawyers, secretaries, the precentor and school of cantors, nobles and a part of the people of the city. There we received consecration and, as is the custom of the Roman Church, we were solemnly and magnificently invested with the pontifical crown.

But the said Octavian, though, while he was in the city and after he secretly slipped out of it, he summoned many bishops to his consecration—or rather his execration !—yet only succeeded in obtaining one, the Bishop of Ferentino, to support his insane audacity. . . .

(*b*)

SOURCE—Text in O. & R., p. 297 (Rahewin, Book IV, c. lx). Watterich, Vol. II, p. 460.

Victor, Bishop, slave of the slaves of God, to his venerable brothers, the patriarchs, archbishops and bishops, to his beloved sons, the abbots, dukes, marquises, counts and other magnates and to the noble household of the Emperor, who are at the sacred court of the lord Frederick, serene and unconquered Emperor of the Romans, greeting and apostolic benediction.

We do not believe that it has escaped your highnesses'

memories how sincerely we have been devoted to the good order of the Church, the dignity of the Empire and the honour of all good men. . . . [There follows a request for immediate help from the Emperor.] We have thought fit to inform you all of how we were called, by God's favour, to the Apostolic office. When Pope Adrian, of blessed memory, our predecessor, had gone the way of all flesh and been buried in the basilica of St. Peter, we all came together to consider the election of a supreme pontiff. After long discussions and thorough deliberation, at last, under the inspiration of the divine mercy, by the election of our venerable brothers, the cardinal bishops and priests of the holy Roman church, and of the Roman clergy, by the petition of the people of Rome, with the assent of the illustrious senate and noble barons, with God's favour we were canonically elected and enthroned in the apostolic chair, and subsequently on the first Sunday in October we received consecration and the full enjoyment of our office. Wherefore we humbly beg you all to help us with your prayers to Him from whom proceeds all power and the glory of dignities. But if any letters reach you from that man, Roland, formerly chancellor, who is bound to William of Sicily in sworn conspiracy against the Church of God and the Empire, and who had himself intruded into the Papacy on the twelfth day after our election, reject them as being full of lies and as coming from a schismatic and heretic, and pay no attention whatever to them.

Given at Segni, October 28.

(*c*)

SOURCE—Gerhoh of Reichersberg, *De investigatione Antichristi*, Lib. I, quoted in Watterich, Vol. II, p. 505.

On the death of Pope Adrian, the cardinal bishops, priests, deacons and others of the holy Roman church met to elect the Roman pontiff. Votes were taken by secret ballot from those concerned and the results written down and announced.

The more numerous and weightier portion of the cardinals

had agreed to the election of the chancellor, Roland. A few had voted for the election of Octavian; and others favoured the election of Master Bernard. Efforts were made to persuade the minority to adhere to the majority of cardinals, since there could not be three Popes; and those who had voted for Master Bernard withdrew their votes. Some of them adhered to the election of the chancellor, others professed an ambiguous willingness to support the election of either Octavian or the chancellor, in order to show devotion to both candidates. Either of the two might be elected [*i.e.* as far as the wobblers were concerned], provided that peace and unity were preserved. Thus the number of cardinals supporting Octavian, either whole-heartedly or thus ambiguously, reached seven. But even so they were a small minority compared with the number of those who supported the election of the chancellor, Roland. Again efforts at persuasion were made to induce these few to abandon a small faction and to join the great majority. These efforts were successful except as regards three, of whom one was John of Pisa and another Guido of Cremona.[1] These two showed great obstinacy and declared that they would never abandon their support of Octavian. The Bishop of Tusculum made a third with them; and these three strove to make the fourth, Octavian, Pope.

43. AN OATH OF THE LOMBARD LEAGUE, 1167

The following is a form of oath to be taken by the rectors of towns adhering to the league, which came into existence as an alliance of Verona, Padua and Vicenza in 1164 *to resist the exactions of Frederick I's agents in Italy. By* 1167 *the league had received the adhesion of many more towns and had been most successful against Frederick's officials and the imperialist towns, such as Pavia and Mantua.*

SOURCE—Text in Watterich, Vol. II, pp. 573–4.

I SWEAR that I will help Venice and Verona, both the fortress and the lower city, and Vicenza and Padua, Treviso, Ferrara and Brescia, Bergamo, Cremona, Milan, Lodi, Piacenza, Parma, Modena, Bologna and all men

[1] It should be 'of Crema'.

and towns, which shall enter into this league with the aforesaid authorities and others who shall make this oath in alliance with us, against any man whomsoever who shall make war on us or do us injury, and against the imposition of any demands on us beyond what we discharged from the time of King Henry till the accession of the Emperor Frederick. And I will not betray any of the aforesaid towns or any other, which shall join us in this league; and if I know of any person intending to do so, or if anyone makes proposals to me in that sense, I will expose him in our common assembly and council as soon as possible.

Likewise I will make no peace, alliance, armistice or truce without the common counsel and consent of the aforesaid towns, and I will help all men, who shall take this oath, against any men who may on that account attack them. And I will cause my male fellow-townsmen from the age of fourteen to that of sixty—except clergy, convicts, paralytics, the dumb and the blind—to take the oath within a month after I have taken it myself. And it shall hold for twenty years from next Easter.

I swear that I will be the chief and leader[1] in defending the city of Venice, the fortress and lower city of Verona, Vicenza, Padua, Treviso, Ferrara, Brescia, Bergamo, Cremona, Milan, Lodi, Piacenza, Parma, Modena, Bologna and the other cities and towns, which shall join in this oath in the league of the aforesaid cities. In good faith I will work for the common advantage and interest of the said towns and for the retention of the pleas of those, who shall take this oath, under the authority of the rectors of that city in which the defendant resides or under the authority of a judge whom the parties shall choose. And if any advantage shall accrue to me through the adhesion to us of any city or people or man, I will reserve it for the common use of all the aforesaid towns. And this I will diligently do, as long as I am in this my present office.

December 1, 1167.

[1] *i.e.*, 'among my fellow-townsmen'.

44. A SELECTION FROM THE DECREES OF THE THIRD LATERAN COUNCIL, 1179

During the negotiations at Venice in 1177, *which resulted in the peace between Barbarossa and Alexander III, it was recognized that a general council of the Church ought to be held, to complete the restoration of church order and to combat the disorders arising from the late schism. The council met during Lent in* 1179. *We have no record of the proceedings of the Council, as William of Tyre's account has not survived. Twenty-seven decrees, however, were published. Many of them were repeated and enlarged at the fourth Lateran Council,* 1215.

SOURCE—Text in Hefele, Vol. V, pp. 1087 *et seq.*

14. FURTHER, because the audacity of some laymen is such that, disregarding the authority of the bishops, they institute clerks to churches and remove them, and they arbitrarily dispose of the possessions and other goods of the churches, and they inflict tallages and exactions on the churches themselves and the churches' tenants; we decree that those, who henceforth commit these offences, shall incur anathema. The priest or clerk, who shall obtain the tenure of a church from laymen without the authority of his own bishop, shall be deprived of communion: and if he is defiant he shall be deposed from his ecclesiastical function and order. And since some laymen compel ecclesiastical persons, and even bishops, to appear before their courts; we decree that those, who henceforth presume to do so, shall be cast forth from the communion of the faithful. And we forbid laymen who hold tithes . . . in any way to transfer them to other laymen. And if any shall so receive them and not convey them to the Church, he shall be deprived of Christian burial. [In C.J.C., Vol. II, *Decretal*, lib. III, tit. xxxviii, c. 4, and tit. xxx, c. 19.]

18. Since the Church of God, like a pious mother, is bound to provide for both the bodily and the spiritual welfare of the needy; and lest the poor, who cannot be helped by their families' resources, should have no opportunity of reading and progress; at every cathedral church an adequate stipend [*beneficium*] shall be assigned for a master who shall teach the clerks of the church

and poor scholars *gratis*. . . . No charge shall be made for the licence to teach, nor shall any payment be required from those who teach, on the ground of any custom. Nor shall any suitable person, who asks for a licence, be forbidden to teach. [In C.J.C., *ibid.*, lib. V, tit. v, c. 1.]

19. [The decree states that rectors and consuls of cities and other lay authorities inflict such heavy imposts on clerks and ecclesiastical property that the position of the clergy is deplorable and the authority of bishops is made negligible.] Wherefore, under pain of anathema, we strictly forbid them for the future to presume to act thus, unless the bishop and clergy admit the necessity for and the utility of [the impost] to be so great that, without any compulsion, they agree that subsidies should be granted from the churches to meet the public necessities where the resources of the laity are not sufficient. . . .[1] [In C.J.C., *ibid.*, lib. III, tit. xlix, c. 4.]

20. Following the examples of our predecessors, Popes Innocent and Eugenius, of happy memory, we forbid the holding of those detestable fairs or festivals, commonly called tournaments, the announcement of which causes knights to assemble and meet in combat in order to display their strength and courage, with the result that men are often killed and souls imperilled. Wherefore, if anyone be thus killed, although his plea for absolution shall not be denied, yet he shall not receive ecclesiastical burial. [In C.J.C., *ibid.*, lib. V, tit. xiii, c. 1.]

25. Since almost everywhere the practice of usury has so developed that many neglect other forms of commerce and practice usury as if it were lawful, without regard to its condemnation in both Testaments; we decree that manifest usurers shall not be admitted to the communion of the altar, and, if they die in the practice of this sin, they shall not receive Christian burial. No one shall

[1] Compare the large amounts paid by the English Church towards the ransom of Richard I. It will be observed that the principle underlying the Bull *Clericis laicos* (see p. 115) was no new thing.

receive an offering [1] from them. . . . [In C.J.C., *ibid.*, lib. V, tit. xix, c. 3.] [2]

27. As St. Leo says, although the discipline of the Church is content with priestly judgement and does not inflict punishments entailing bloodshed, yet it is supported by the edicts of Catholic princes, since men often seek the salvation of their souls when they fear that otherwise they will suffer temporal penalties. Wherefore, since in Gascony, in the districts of Albi and Toulouse and in other places the accursed frowardness of the heretics, called Cathari or Patrini or Publicani or by other names, has increased so much that they no longer follow their evil ways in secret as elsewhere, but publicly proclaim their erroneous tenets and persuade the weak and simple to agree with them: we decree that they and those who receive or defend them lie under sentence of anathema. And under pain of anathema we forbid anyone to receive them in his house or on his land, or to favour them, or to dare to do business with them. . . . [In C.J.C., *ibid.*, lib. V, tit. vii, c. 8.]

45. THE CHARTER OF GELNHAUSEN, APRIL 13, 1180

No single event so altered the political structure of medieval Germany as the fall of Henry the Lion. The last of the great tribal duchies was destroyed. Henceforth the country was divided into innumerable

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[1] *i.e.*, for pious purposes.

[2] Many popes issued decrees dealing with different aspects of usury. One example is a decree of Gregory IX (C.J.C., *ibid.*, lib. V, tit. xix, c. 19)—He is to be considered a usurer who lends money to one undertaking a voyage or travelling to a fair, on condition of receiving in return more than his capital, on account of the risk incurred. But if a man pays ten shillings on condition that so many measures of corn or wine or oil shall be delivered to him at some future date, and if they are by then of greater value; provided that he apparently did not know whether they would be of greater or less value by the time of delivery, he ought not, because of the transaction, to be considered a usurer. . . .

principalities, great and small, amongst which the dukes no longer stood out conspicuous for wealth and power.

Henry was summoned by Frederick Barbarossa to appear at Worms on January 13, 1179, *to answer the charges against him. He did not appear; and was summoned again to Magdeburg for June* 24. *There, according to customary law, he was condemned by the nobles of his tribe* (*the Swabian, since the family castle of the Welfs was at Altdorf in Swabia*) *and put to the ban. Henry was now accused according to feudal law and was offered trial by battle. But he did not appear. Nor did he answer further citations to Kaina for August* 17 *and to Würzburg for January* 13, 1180. *For this threefold contumacy he was condemned by the whole body of princes of the Empire at Würzburg to the loss of his fiefs.*

The document which follows shows what Barbarossa did with Henry's Saxon duchy, partitioning it between Philip of Heinsberg, Archbishop of Köln, and Bernard of Anhalt, henceforth Duke of Saxony, younger son of Albert the Bear, of Brandenburg. At Regensburg on June 24 *Henry was declared an outlaw; and lastly at Altenburg on September* 16 *his Bavarian duchy was also partitioned, Styria being detached and made into a duchy under its former margrave, Ottokar; while the remainder was conferred on Otto of Wittelsbach.*

SOURCE—Text in A. and B., p. 316 (No. 152). Translation in Henderson.

. . . Wherefore let all faithful subjects of the Empire, present and future, know that Henry, sometime Duke of Bavaria and Westphalia, grossly violated the liberty of God's churches and of the nobles of the Empire, seizing their possessions and subverting their rights. And for his contempt of the Swabian princes of his own rank and because he did not cease to attack God's churches and the rights and liberties of the princes and nobles, he incurred our sentence of proscription. And, both for his injuries to them and his continued insolence towards us and especially for his manifest *lèse majesté* in that, thrice summoned to our presence by lawful citation according to the feudal law, he had absented himself and had sent no one to answer for him; at the instance of the princes and many nobles, he was judged contumacious. Further, by the unanimous sentence of the princes, in the court held at Würzburg, the duchy of Bavaria and that of Westphalia and Angaria [1] and all the fiefs which he held

[1] *i.e.*, Engern, the territory on either side of the Weser.

of the Empire were declared forfeited by him and adjudged to our jurisdiction and authority.

Wherefore, after consultation with the princes and by their common counsel, we have divided the duchy known as Westphalia and Angaria into two parts; and from consideration of the merits whereby our beloved prince, Philip, Archbishop of Köln, has deserved the privilege of the imperial favour by promoting and maintaining the honour of the imperial crown, shrinking from neither expense nor personal danger, we have lawfully conferred upon the church of Köln, and of the imperial liberality do convey to it, one part, namely that which contains part of the diocese of Köln and the whole of that of Paderborn, with every right and jurisdiction. . . . And, after the united decision of the princes and all the court that our action was lawful and desirable, and with the public consent of our beloved relative, Duke Bernard, on whom we conferred the other part of the duchy, we have solemnly invested the said Archbishop Philip, by the banner of the Empire, with that part of the duchy which is given to his church. . . .

Given in solemn court at Gelnhausen in the territory of Mainz, April 13.

V

THE CHURCH IN THE THIRTEENTH CENTURY

46. A CONSTITUTION OF INNOCENT III ON THE JEWS, 1199

The period of severe persecution of the Jews in western Europe began with the first crusade. Each great crusade was accompanied by an outbreak of anti-Semitic fanaticism. Certain eminent persons, such as St. Bernard, Henry II of England, Louis VI and VII of France, Pope Alexander III, were at pains to protect the Jews from mob violence. The third Lateran Council issued decrees protecting their religious liberty. If in this constitution Innocent III tried again to ensure to the Jews protection of life, worship and property, he also endeavoured to prevent Christian monarchs from employing Jews in positions of power, and his, the fourth, Lateran Council decreed the exclusion of Jews from public offices and ordered them to wear distinctive badges.

SOURCE—Migne, Vol. 214, col. 864.

. . . Therefore, although they prefer to remain obstinate rather than acknowledge the meaning of the prophets and the mysteries of the law and so to come to the knowledge of the Christian faith ; nevertheless, because they ask the help of our protection, out of the gentleness of Christian piety and following the examples of our predecessors of happy memory, Calixtus, Eugenius, Alexander, Clement and Celestine, Roman Pontiffs, we accept their petition and extend to them the shield of our protection. And we order that no Christian shall compel them by violence against their will to be baptized. But, if any of them of his own accord shall have changed his faith and betaken himself to Christians, and his desire is proved, he may be made a Christian, without any pecuniary charge. For we

believe that he, who is known to accept Christian baptism not freely but unwillingly, has not the true Christian faith. And no Christian, except in execution of a sentence of the public authority, shall presume to injure their persons or violently to seize their property or to change the good customs which they have hitherto enjoyed in the country where they live. Further, none shall disturb the celebration of their festivals by striking them with sticks or stones. . . . Also, to defeat the depravity and avarice of evil men, we order that none shall dare to mutilate or diminish a cemetery of the Jews or extort money by exhuming bodies there buried. And if anyone dares knowingly to defy this decree, unless he pays for his presumption with adequate satisfaction, he shall be punished with excommunication. . . .

Given at the Lateran, by the hand of Raynald, Archbishop Acerenza, acting chancellor, September 15. . . .

47. AN INTERDICT ON FRANCE, 1200

After several attempts to induce Philip Augustus to put away Agnes of Meran, to admit provisionally the status of Ingeborga of Denmark as his lawful wife and to submit his case for the annulment of his marriage to the judgement of the Church, Innocent III sent the Cardinal deacon Peter of Capua to lay France under an interdict. The legate assembled twenty-two French bishops at Dijon and the sentence was pronounced. It was openly promulgated on January 15, 1200, at Vienne, a city then outside France. Despite the fury of the king the French clergy carried out the terms of the interdict. The horror of the people at being deprived of the Sacraments and of public worship, and at seeing and smelling the rotting bodies of the dead, was such that Philip was constrained to make his submission in September.

SOURCE—Text in Martène, Vol. IV, p. 147. Translation in T. and R., Vol. IV, No. 4.

ALL the churches shall be closed. No one shall be admitted to them, except for the baptism of infants. They shall not be opened, except for the purpose of attending to the lamps or when the priest shall take the Eucharist and holy water for the sick. We only permit Mass to be celebrated once a week, on Fridays in the early morning, for the pur-

pose of reservation for the sick ; and none shall be admitted, except the clerk who is to assist the celebrant. Priests shall preach on Sundays in the porches of the churches, and in place of the Mass they shall disseminate the word of God. They shall recite the canonical hours outside the churches and out of hearing of the laity. When they read the epistle or the gospel, they shall take care not to be heard by laymen ; and they shall not allow the bodies of the dead to be buried or even to be deposited in the cemeteries. Further they shall warn the laity that it is a misdemeanour and a grave sin to bury the dead unblessed and that in so doing they arrogate to themselves a right which is not theirs. They shall forbid their parishioners to enter the open churches on the king's domain. They shall only bless the wallets of pilgrims outside the churches. During Holy Week no offices shall be celebrated. Priests shall wait till Easter Day, on which they shall say Mass in secret, admitting none but one clerk, as is aforesaid. None of the faithful shall communicate, even at Easter, unless ill and in danger of death. During that week or on Palm Sunday parish priests shall instruct their parishioners to assemble on the morning of Easter Day before the church porch, where they shall be allowed to eat meat with the bread blessed on that day. They are expressly forbidden to admit women to the churches for churching. They shall instruct women to join with their neighbours in prayers outside the church on the day of their purification. And women shall not enter the churches even to hold babies over the sacred font of baptism until they are admitted by the priest after the interdict has been raised. Those who wish to confess shall be heard in the porch of the church. Where no porch exists, during rain or bad weather the doors can be opened and confessions heard on the threshold, all the faithful, except him or her who is confessing, remaining outside ; but the confession shall be made aloud, so that the penitent and the confessor can be heard by all those outside the church. In fine weather confessions shall be heard outside the closed doors of the church. Bowls of

holy water shall not be placed outside the churches, and the clergy shall carry none out ; for all the sacraments of the Church are forbidden other than those two which are excepted.[1] Extreme unction itself, which is a great sacrament, is forbidden.

48. INNOCENT III'S DECRETAL *VENERABILEM*, MARCH, 1202

This document is a letter addressed by Innocent III to the Duke of Zähringen during the civil wars occasioned by the disputed election to kingship of the Romans. Innocent supported Otto and in this letter developed his views on the rights of the Papacy with regard to imperial elections. The decretal became the authoritative statement of the Papal claim and as such was included in the Canon Law.

SOURCE—C.J.C., *Decretal.* lib. I, tit. vi, c. 34. M.G.H., *Leges*, sect. IV, Vol. II, p. 505. Text in A. and B., p. 117 (No. 56).

. . . Wherefore we recognize, as we should, that the right and power of electing a King (subsequently to be raised to be Emperor) pertains to those princes to whom it is known to pertain by right and ancient custom ; especially since this right and power came to them from the Apostolic See, which transferred the Empire from the Greeks to the Germans in the person of Charles the Great. But the princes ought to recognize and do surely recognize that the right and authority to examine the person elected King (to be elevated to the Empire) belongs to us, who anoint, consecrate and crown him. For it is a rule generally observed that the examination of a person appertains to him to whom belongs the laying-on of hands. For if the princes, not merely by majority but even unanimously, elected as King a sacrilegious person or an excommunicate, a tyrant or an idiot, a heretic or a pagan, ought we to anoint, consecrate and crown such a man ? Of course not. . . . And it is clear from law and precedent that, when in an election the votes of the princes are divided, we can, after due warning and delay, favour one of the parties, especially after unction, consecration and corona-

[1] *i.e.*, Baptism of the newly-born and the Viaticum for the dying.

tion have been demanded of us, as both parties have often demanded of us. For if, after warning and delay, the princes cannot or will not agree, will not the Apostolic See be without an advocate and defender, and will not their fault result in penalizing her? The princes know, and your nobility is not unaware, that, when Lothar and Conrad were elected in mutual opposition, the Roman pontiff crowned Lothar, who when crowned obtained the Empire. . . .

49. A SELECTION OF DECREES OF THE FOURTH LATERAN COUNCIL (1215)

Of the seventy decrees of this great reforming Council selections are here given from four. No. 3 is concerned with the growth of heresy at the time and insists on episcopal inquisitions. In No. 6 the Church gave an example of government by assemblies, central and local, which was probably not without its influence on temporal government, e.g., the development of Parliament and County Courts in England. No. 18 was followed by the gradual disappearance of the ordeal as a judicial method.

SOURCE—Hefele, Vol. V, pp. 1330 *et seq.*

3. . . . Convicted heretics shall be handed over for due punishment to their secular superiors, or the latter's bailiffs. If they are clerks, they shall first be degraded.[1] The goods of the laymen thus convicted shall be confiscated: those of the clergy shall be applied to the churches from which they drew their stipends.

. . . If a temporal lord neglects to fulfil the demand of the Church that he shall purge his land of this contamination of heresy, he shall be excommunicated by the metropolitan and other bishops of the province. If he fails to make amends within a year, it shall be reported to the supreme pontiff, who shall pronounce his vassals absolved from fealty to him and offer his land to catholics. The latter shall exterminate the heretics, possess the land without dispute and keep it in the true faith; saving the

[1] Cf. the Constitutions of Clarendon, c. iii, which provided for similar action in the case of clerks convicted of crime.

rights of the overlord, provided that he himself is under no disqualification.[1] . . .

Catholics, who assume the cross and devote themselves to the extermination of heretics, shall enjoy the same indulgence and privilege as those who go to the Holy Land. . . .

Further we add that every archbishop and bishop, in person or by his archdeacon or suitable and trustworthy persons, shall visit each of his parishes, in which there are said to be heretics, twice or at least once a year. And he shall compel three or more men of good reputation, or even, if necessary, the whole neighbourhood, to swear that, if any of them knows of any heretics or of any who frequent secret ceremonies or who practise manners and customs different from those common amongst Christians, he will report them to the bishop. The bishop shall call the accused into his presence; and, unless they clear themselves of the accusation, or if they relapse into their former mischief, they shall receive canonical punishment. . . . [Cf. C.J.C., Vol. II, *Decretal*, lib. V, tit. vii, c. 13.]

6. . . . Metropolitans shall hold provincial councils with their suffragan bishops every year. Thereat earnestly and in the fear of God they shall consider methods of correcting abuses and reforming evils, especially amongst the clergy. . . . And, that this may be more thoroughly carried out, they shall appoint in every diocese suitable, discreet and trustworthy persons who shall quietly take note during the year of whatever requires correction and shall make a faithful report to the metropolitan, the bishops and others at the next council ; . . . and what [the bishops] decide, they shall enforce, publishing their decisions in their episcopal synods, which shall be held annually in all dioceses. [Cf. C.J.C., *ibid.*, lib. V, tit. i, c. 25.]

18. No cleric shall draw up or pronounce a sentence entailing the shedding of blood; nor execute any such punishment; nor be present at it. . . . Nor shall any cleric pronounce any form of benediction or consecration over

[1] Cf. the circumstances in south-western France.

an ordeal by boiling or cold water or molten iron. Prohibitions already promulgated against single combats or duels retain their force. [Cf. C.J.C., *ibid.*, lib. III, tit. I, c. 9.]

21. Every Christian of either sex, after reaching years of discretion, shall faithfully confess all his sins, at least once a year, privately to his own priest ; he shall fulfil the penance imposed on him to the best of his ability ; and reverently receive the sacrament of the Eucharist at least at Easter. . . . The priest shall take care not to betray the confidence of the sinner by word, by sign, or in any other way. . . . We declare that whoever shall reveal a sin confessed at the penitential tribunal, shall not only be deposed from his priestly office, but shall be imprisoned in a severe monastery to do perpetual penance. [Cf. C.J.C., *ibid.*, lib. V, tit. xxxviii, c. 12.]

50. SELECTIONS FROM THE RULE OF ST. FRANCIS, 1223

The following extracts give the substance of the rule approved by Pope Honorius III on November 29, 1223. St. Francis had been content with a much simpler rule consisting of a few precepts from our Lord's words in the Gospels. But the expansion of his band of brothers into a large Order necessitated more detailed regulations and, on the advice probably of Cardinal Ugolino, afterwards Gregory IX, and of Pope Honorius III, he eventually produced this rule. It retained the essential points concerned with humility, work and absolute poverty, to which some of the brethren had objected and continued to object.

SOURCE—Text in Boehmer, p. 29. Translation in Henderson.

1. IN the Lord's name thus begins the way of life of the brothers minor. The rule and life of the brothers minor is this, to observe the holy Gospel of our Lord Jesus Christ, living in obedience, without property, and in chastity. Brother Francis promises obedience and reverence to the lord Pope Honorius and to his canonical successors and to the Roman church. And the other brothers shall be bound to obey brother Francis and his successors.

2. . . . If any wish to take up this life and they come to

our brothers, the latter shall send them to their provincial ministers. . . . And the ministers shall carefully examine them concerning the Catholic faith and the sacraments of the Church. And if they believe all these and will faithfully confess them and observe them to the end ; and if they have no wives, or their wives have entered a convent, or with the leave of their diocesan bishop they have given their wives leave to do so and have taken a vow of continence ; the ministers shall bid them, in the words of the holy Gospel, to go and sell all their goods and carefully distribute all to the poor. . . . And when the year of probation is over, they shall be received into obedience, promising ever to observe this life and rule. . . . And those who have promised obedience shall have one gown with a hood and, if they wish, one without a hood. And those who really need them can wear shoes. And all the brothers shall wear poor clothing, which they may repair with sackcloth and other scraps, with God's blessing. And I warn and exhort them not to despise or judge men whom they see clothed in soft and coloured raiment or enjoying rich food and drink ; but each shall rather judge and despise himself.

4. I strictly command all the brothers never to receive coin or money either directly or through an intermediary. The ministers and guardians shall make provision, through spiritual friends, for the needs of the infirm and for other brothers who need clothing, according to the locality, season or cold climate. . . .

5. Those brothers, to whom God has given the grace of working, shall work faithfully and devotedly and so that, avoiding idleness, the enemy of the soul, they do not quench the spirit of holy prayer and devotion, to which other and temporal activities should be subordinate. As the wages of their labour they may receive corporal necessities for themselves and their brothers but not coin nor money. . . .

6. The brothers shall possess nothing, neither a house, nor a place, nor anything. But, as pilgrims and strangers

in this world, serving God in poverty and humility, they shall confidently seek alms, and not be ashamed, for the Lord made Himself poor in this world for us. . . .

8. All the brothers shall be bound always to have one of the brothers of the order as minister general and servant of the whole brotherhood, and shall be strictly bound to obey him. On his death the election of a successor shall be made by the provincial ministers and guardians in the chapter at Pentecost, at which the provincial ministers shall always be bound to assemble, wherever the minister general provides; and this once in three years or at a greater or less interval, according as is ordered by the aforesaid minister. . . .

9. The brothers shall not preach in the diocese of any bishop, who has forbidden them to do so. And none of the brothers shall dare to preach at all to the people unless he has been examined and approved by the minister general of this brotherhood. . . .

10. . . . And [the brothers] shall not attempt to teach the illiterate, but shall strive for that which they should desire above all things, to have the spirit of the Lord and its holy working, ever to pray to Him with a pure heart, to have humility and patience in persecution and infirmity, and to love those who persecute and censure and revile us, for the Lord says 'Love your enemies. . . .'

12. Whoever of the brothers, inspired by God, wish to go among the Saracens and other infidels, shall ask leave therefor from their provincial ministers. The ministers shall give leave to go to none but those whom they consider fit to be sent.

And this I command the ministers on their obedience, to seek from the lord pope one of the cardinals of the holy Roman church, who may be the governor, protector and corrector of the brotherhood, so that, ever subject and prostrate at the feet of that same holy Church, steadfast in the catholic faith, we may observe poverty and humility and the holy Gospel of our Lord Jesus Christ, as we have firmly promised.

51. GREGORY IX'S BULL *PARENS SCIENTIARUM*, APRIL 13, 1231

An unusually brutal 'town and gown' row in 1229 *led to severe punishments being inflicted on the scholars of Paris by the municipal authorities. The University appealed in vain to the bishop and the legate. Finally the masters dissolved the University and betook themselves to Oxford, Cambridge, Angers, Orleans and elsewhere. But Pope Gregory IX supported the masters; and the royal government and the city of Paris wanted the University back. Peace was patched up in* 1231 *and the University returned, strengthened by this bull, which Fr. Denifle rightly calls the* Magna Carta *of the University.*

SOURCE—C.U.P., Vol. I, p. 136 (No. 79). Translation in T. and R., Vol. II, No. 3.

GREGORY, Bishop, slave of the slaves of God, to his beloved sons, all the masters and scholars of Paris, greeting and apostolic blessing.

Paris, mother of the sciences, like another Cariath Sepher,[1] a city of letters, shines forth precious, great indeed, but arousing the desire for yet greater things in favour of her teachers and learners. . . .

Therefore concerning the status of the scholars and the schools we have enacted these statutes to be observed, namely—that every chancellor of Paris, created hereafter, at his institution, in the presence of the bishop or, by his command, in the chapter of Paris, and before two masters summoned for the occasion on behalf of the University of scholars, shall swear that in good faith and conscientiously he will accord the licence to teach theology and decrees[2] only to worthy men, at the right time and place, according to the condition of the city and the honour and dignity of the said faculties; and that he will not admit the unworthy, without respect of persons or nations. And before he license anyone, he shall diligently inquire, during three months from the date of the application for the licence, from all the masters of theology present in the city and from other respectable and learned men, through whom the truth may be known, concerning the life, learning and ability as well as the purpose and likelihood of proficiency and other points that should be required in

[1] See Josh. xv. 15.

[2] *i.e.*, Canon Law.

such persons; and, after thus making inquisition as to what is right and fitting, he shall grant the licence to the applicant or withhold it, in good faith and conscientiously. And masters of theology and of decrees shall publicly take an oath, when they begin to lecture, that they will give faithful witness on the aforesaid points. And the chancellor shall swear that he will not reveal the advice given by the masters, to their hurt—their liberty and right of incepting remaining firmly assured to the canons of Paris. And with regard to medicine and the arts and other subjects the chancellor shall swear in good faith to examine the masters, to admit only the worthy and to reject the unworthy. Further, because where no order is there confusion easily creeps in, we grant you the power of making suitable constitutions and ordinances concerning the time and method of lecturing and disputing, the regulations on costume and the burial of the dead; also as to which bachelors are to lecture and at what hour and on what subject; also concerning the assessment of prices in, or discommuning of, lodging-houses; also the power of suitably punishing those who rebel against the said constitutions and ordinances, by expulsion from your society. And if it happens that the assessment of lodging-house prices is taken from you, or if, *quod absit*, an injury or outrageous wrong, such as murder or the mutilation of a member, be done to you or any one of you, then, unless in reply to a proper protest satisfaction shall be made within fifteen days, you shall have the right to suspend your lectures pending full satisfaction. And if it shall happen that one of you is wrongly imprisoned, and if a protest does not cause the outrage to cease, you may rightly at once cease lecturing, if you think it expedient.

And we command that the Bishop of Paris shall so punish the outrages of delinquents that the honour of the scholars shall be preserved and evil deeds not remain unpunished. But the innocent shall on no account be seized in place of the guilty; but, if a reasonable suspicion shall arise against anyone, he shall be kept under honour-

able arrest and, on giving suitable bail, he shall be released, without exactions by the gaolers. But if it shall happen that he has committed such a crime that his imprisonment is necessary, the bishop shall hold the criminal in prison ; but the chancellor is absolutely forbidden to have his own prison. Further we forbid henceforth the imprisonment of a scholar for debt, since that is forbidden by the authority of canons and laws. . . .

Further the summer vacation shall not in future exceed one month, and bachelors, if they shall so wish, may continue their lectures during the vacation. And we most expressly forbid scholars to go armed through the city, or the University to defend disturbers of the peace and of study. And those who pretend to be scholars but do not attend in the schools nor acknowledge any master, shall in no way enjoy the liberty of scholars.

We also command that masters of arts shall give a reading from Priscian[1] and shall always take one book after another in regular order. And at Paris they shall not use those books on natural philosophy, which for a certain cause were forbidden by a provincial Council,[2] until they have been examined and purged of all suspicion of error. The masters and scholars in theology shall devote themselves to praiseworthy diligence in the faculty which they profess ; and they shall not prove themselves philosophers, but shall strive to become God's learned ; and they shall not speak in the language of the people, nor confound the sacred language with the profane ; and in the schools they shall only dispute on such questions as can be determined by theological books and the treatises of the holy fathers. . . .

[1] Author of the most important extant grammatical work of antiquity, *Institutiones grammaticae*. He taught at Constantinople about 500. He and Donatus were the leading medieval authorities on Latin grammar.

[2] A council of bishops was held at Paris in 1210 to consider the cases of certain heretics and of suspect books, amongst the latter being Aristotle's books on natural philosophy. C.U.P., Vol. I, no. 11, p. 70.

Truly the masters and scholars who, being harassed by losses and injuries, took a mutual oath, broke up their academic life and departed from the city of Paris, have appeared to be forwarding not so much their own as the public welfare. We, therefore, weighing the needs and interests of the whole church, will and command that, after the privileges shall have been presented to the masters and scholars by our beloved son in Christ . . . the illustrious king of the French, and the amends from their persecutors have been assessed, they may lawfully study at Paris and no dishonour or irregularity shall be imputed to them on account of their absence or return. . . .

Given at the Lateran, the Ides of April, the fifth year of our pontificate.

52. JAMES DE VITRY ON STUDENT LIFE AT PARIS, THIRTEENTH CENTURY

James de Vitry, historian of the crusades, cardinal, Bishop of Acre and later of Tusculum, was born about 1160 *and died at Rome* 1240. *He studied at Paris in the early days of the University, was one of the principal preachers against the Albigenses and then spent some ten years in the Levant. His description of University life is not all so pessimistic as the passage below suggests. He goes on to describe the profit gained by those who attended the classes of a certain admirable lecturer.*

SOURCE—Vitry, Book II, c. 7.

SOME studied only to acquire knowledge, which is curiosity; others in order to be known, which is vanity; others for the sake of gain, which is cupidity and the sin of simony. A few studied in order to be edified and to edify. Not only did they fall out with and oppose each other because of their diverse schools of thought or when disputations were held; but they shamelessly hurled many insults and taunts at each other, owing to the divisions, hatreds and contempt that arose from the diversity of their countries of origin. They affirmed that the English drank heavily and had tails; that the French were arrogant, soft and temperamentally like women: that the Germans were

violent and at their feasts obscene: the Normans silly and boastful: the Poitevins treacherous and fortune-hunters. Those of Burgundy they esteemed heavy and stupid. The Bretons they held to be frivolous and volatile and often reproached them for the death of Arthur. The Lombards they called avaricious, crafty and cowardly; the Romans quarrelsome, violent and slanderous; the Sicilians overbearing and cruel; the Brabançons men of blood, incendiaries, brigands and ravishers; the Flemings restless, wasteful, gluttonous, soft as butter and idle. And because of such insults, they often proceeded from words to blows.

Let us not speak of the Logicians, before whose eyes flitted the lice of Egypt, *i.e.* sophistical subtleties, so that their oratorical dissertations, in which, as Isaiah says, 'there is no wisdom,' were wholly unintelligible. The Doctors of Theology, who sat in the seat of Moses, were puffed up with knowledge, but were not grounded in charity. For, teaching and not practising, they became like a sounding brass and a tinkling cymbal and like a canal of stone, which, itself remaining dry, brings water to the beds of spices. Not only did they hate each other and lay themselves out to attract the pupils of other teachers, seeking their own glory and caring nothing for the harvest of souls; but, turning willing ears to that phrase of the Apostle, 'He who desireth the office of a bishop, desireth a good work,'[1] they multiplied their prebends and sought after offices. Yet what they cared for was not the duties of an office but the dignified position, for they sought the chief salutations in the market-place, the chief seats in the synagogues and the chief places at feasts.

53. GRANT BY NICHOLAS IV OF THE *JUS UBIQUE DOCENDI* TO PARIS, MARCH 23, 1292

Licentiates—teachers licensed by the chancellor—of Paris had long in fact been accepted as teachers elsewhere. It was because their right to teach anywhere had in some cases been challenged that Pope

[1] 1 Tim. iii. 1.

Nicholas IV gave that right papal sanction. Henceforward the chancellor conferred licences in the name of the Pope.

SOURCE—C.U.P., Vol. II, p. 54 (No. 578).

NICHOLAS, Bishop, slave of the slaves of God, to his beloved sons, the University of masters and scholars of Paris, greeting and apostolic blessing. . . .

Desiring therefore that those who study in the field of knowledge in the city of Paris shall be incited to the excellence of the mastership and shall be able to teach all everywhere in the faculties, in which they have deserved a master's chair. We hereby decree that whoever of your University at the aforesaid city shall have been examined and approved by those, by whom the licence for teaching has been conferred with apostolic authority on those worthy of being licensed according to the custom prevailing there, and shall have obtained from them the licence in the faculties of theology or canon law or medicine or the liberal arts, shall thenceforth have complete freedom to administer and teach in all places outside the said city without examination or approbation public or private or any other new beginning; nor shall he be forbidden to do so by anyone, notwithstanding any customs or statutes to the contrary; and whether he wishes to administer in the said faculties or not, he shall nevertheless be treated as a doctor. . . .

Given in Rome, at St. Maria Maggiore, March 23, the fifth year of our pontificate.

54. BONIFACE VIII'S BULL, *CLERICIS LAICOS*, FEBRUARY 25, 1296

It had been the practice of western Europe in the thirteenth century that secular monarchs did not extract subsidies from the clergy without the permission of the Pope. Edward I of England and Philip IV of France, however, engaged in costly wars and demanded taxation from the clergy as well as the laity to meet their expenses. Boniface attempted, by this bull, to enforce the previous custom. The bull acted explosively and provoked retaliation from both kings.

SOURCE—Text in Mirbt, p. 208 (No. 369). Translation in Henderson.

ANTIQUITY shows that laymen are most hostile to the clergy. This is also clearly proved by the experience of the present time. For, not content with their own, laymen strive for forbidden things and loose the rein in pursuit of the unlawful. They do not wisely reflect that power over clerics or ecclesiastical persons and goods is forbidden to them. They impose heavy burdens on prelates of churches, on churches, on ecclesiastical persons both regular and secular; they tallage them and impose contributions on them. They demand and extort from them the half, tenth, or twentieth, or some other portion or quota of their income or goods. In many ways they attempt to reduce them to slavery and to subject them to their own authority. And—regretfully we say it—some prelates of churches and ecclesiastical persons, fearing where no fear is, seeking a transitory peace, more fearful to offend the temporal than the eternal majesty, without obtaining the authority and leave of the Apostolic See, not merely rashly but improvidently acquiesce in the illegalities of such men.

We, therefore, desiring to check these abuses, on the counsel of our brothers and by the apostolic authority, decree that any prelates or ecclesiastical persons, religious or secular, of whatever order, condition or estate, who shall pay, promise or agree to pay to laymen any contributions or tallages, a tenth, twentieth or hundredth part of their or their churches' income or goods, or any other quantity, portion or quota of the estimated or actual value of the said income or goods, under the name of an aid, loan, subvention, subsidy or gift, or under any other title, manner or far-fetched excuse, without the authority of the said See; likewise emperors, kings and princes, dukes, counts and barons, podestas, captains, officials or rectors, whatever their title, of cities, of castles or of any places, wherever situated, and any others of whatever eminence, condition or estate, who shall impose, exact or receive such payments, or shall anywhere take, seize or presume to retain churches' or ecclesiastical persons' goods deposited

in sacred buildings, or shall order them to be taken, seized or retained, or shall receive such as are retained, seized or taken, also all who knowingly give aid, counsel or support to such proceedings, whether publicly or secretly; all these by their own act shall incur sentence of excommunication. Communities, which shall be guilty in these matters, we subject to ecclesiastical interdict. . . .

55. BONIFACE VIII'S BULL *UNAM SANCTAM*, NOVEMBER 18, 1302

In November, 1302, *Boniface held a synod at Rome, at which he denounced those who prevented the faithful from visiting the apostolic see, and promulgated this bull. Although it said nothing new, it exasperated Philip IV. Clement V subsequently declared, in his writ* Meruit, *that the bull did not affect the rights of the crown of France; and Leo X, when confirming the bull in* 1516, *did so 'without prejudice to the declaration* Meruit'.

SOURCE—Text in Mirbt, p. 210 (No. 372). Translation in Henderson.

THAT there is one Holy Catholic and Apostolic Church we are obliged by the faith to believe and hold—and this we firmly believe and frankly confess—outside which Church there is neither salvation nor remission of sins. . . . In which Church there is one Lord, one faith, one baptism.[1] At the time of the flood there was one ark of Noah, prefiguring the one Church; which was completed in one cubit and had one, namely Noah, as helmsman and captain; outside which all things on earth, we read, were destroyed. . . . Of this one and only Church there is one body and one head—not two heads, as of a monster—namely Christ, and Christ's vicar is Peter, and Peter's successor, for the Lord said to Peter himself, 'Feed My sheep.'[2] 'My,' He said in general, not particularly these or those; wherefore He is understood to have committed them all to him. Therefore, if the Greeks or others say that they were not committed to Peter and his successors, they necessarily confess that they are not of Christ's sheep, for the Lord says in John, 'There is one fold and one shepherd.'[3]

[1] Eph. iv. 5. [2] John xxi. 17. [3] John x. 16.

And we learn from the words of the Gospel that in this Church and in her power are two swords, the spiritual and the temporal. For when the apostles said, 'Behold, here are two swords'[1]—that is, in the Church, since it was the apostles who spoke—the Lord did not reply, 'It is too much,' but 'It is enough.' Truly he who denies that the temporal sword is in the power of Peter, misunderstands the words of the Lord, 'Put up thy sword into the sheath.'[2] Both are therefore in the power of the Church, the spiritual sword and the material. But the latter is to be used for the Church, the former by her; the former by the priest, the latter by kings and captains but by the assent and permission of the priest. The one sword, then, should be under the other, and temporal authority subject to spiritual power. . . .

Thus, concerning the Church and her power, is the prophecy of Jeremiah fulfilled, 'See, I have this day set thee over the nations and over the kingdoms,' etc.[3] If, therefore, the earthly power err, it shall be judged by the spiritual power; and if a lesser spiritual power err, it shall be judged by a greater. But if the supreme power err, it can only be judged by God, not by man; for the testimony of the apostle is 'The spiritual man judgeth all things, yet he himself is judged of no man.'[4] For this authority, although given to a man and exercised by a man, is not human, but rather divine, given at God's mouth to Peter and established as a rock for him and his successors in Him whom he confessed, the Lord saying to Peter himself, 'Whatsoever thou shalt bind,' etc.[5] Whoever therefore resists this power thus ordained of God, resists the ordinance of God. . . . Furthermore we declare, state, define and pronounce that it is altogether necessary to salvation for every human creature to be subject to the Roman pontiff.

[1] Luke xxii. 38. [2] John xviii. 11. [3] Jer. i. 10.
[4] 1 Cor. ii. 15. [5] Matt. xvi. 19.

VI

THE EMPIRE AND ITS NEIGHBOURS, 1200–1370

56. MUNICIPAL LIBERTIES OF BASEL QUASHED, SEPTEMBER 13, 1218

The lords of towns, especially bishops who lived in the towns, were loath to surrender their governmental rights to citizen councils. When they appealed to the Diet of the Empire, which was composed of ecclesiastical and lay lords, their views were usually upheld. But as there was no strong central government to enforce the decisions of the Diet, the movement towards municipal self-government progressed rapidly in Germany in the thirteenth century. In the following document is given a decision of a Diet held at Ulm in 1218.

SOURCE—Text in A. and B., pp. 416–17 (No. 197).

. . . Frederick II, by the divine mercy king of the Romans, ever august, and king of Sicily. . . . Our beloved prince, Henry, bishop of Basel, appearing before our royal highness and many princes, barons and nobles of the Empire, urgently begged for a decision on this matter: whether we or anyone else could or should establish a civic council in a city ruled by a bishop, without the goodwill and consent of the bishop himself. Thereupon our beloved prince, Theodoric, the venerable archbishop of Trier, was asked by us for his opinion. He, after consideration, gave it as his decision that we neither could nor should allow or establish a council in the city of the aforesaid prince of Basel, without the consent and goodwill of the bishop or of his successors in the bishopric. Then according to law the question was put to each of those who were present, and the decision of the archbishop was upheld and proclaimed by all the princes, nobles and barons present.

We, as a just judge, of our innate royal wisdom, approve this decision and recognize its justice; and we revoke, dissolve and utterly abolish the council, in whatever form it existed in Basel; and we entirely quash our privilege, which the men of Basel have, and it is our will that henceforth they shall not use it. And as further proof of our favour and love towards the said bishop, we entirely forbid the men of Basel, under pain of complete loss of our favour, henceforth to make or establish a council or any new institution, by whatever name it may be called, without the consent and goodwill of the bishop. . . .

Certified by me, Conrad, bishop of Metz and Speyer, Chancellor of the imperial hall, on behalf of the lord Siegfried, archbishop of the holy see of Mainz, archchancellor of all Germany. . . .

57. THE GOLDEN BULL OF ANDREW II OF HUNGARY, 1222

The early history of the kingdom of Hungary has many points of similarity with that of Anglo-Norman England. Here a military caste of Norman landlords was imposed on Anglo-Saxon, Danish and Celtic elements. There a similar caste of Magyars was imposed on Slavs and Rumans. William I and Stephen I laid the foundations of strong monarchies with the blessing and support of the Papacy. Their successors in the twelfth century extended the power of those monarchies, with the result that both John and Andrew II, almost at the same time, provoked feudalist reactions. Several articles of this Golden Bull resemble articles of the Magna Carta *of* 1215. *Compare G.B.I. with M.C.* 14, *G.B.* 2 *with M.C.* 39, *G.B.* 3 *with M.C.* 12, *G.B.* 7 *with M.C.* 16, *G.B.* 28 *with M.C.* 40, *G.B.* 31 *with M.C.* 61. *G.B.* 11 *and* 24 *may be compared with the petition of the English barons at Oxford in* 1258 *for the removal of foreigners from castellanships; and G.B.* 14 *and* 16 *with the clause* Of sheriffs *in the Provisions of Oxford. The Golden Bull is, however, unlike* Magna Carta, *directed even more against the power of the greater nobility, the magnates, than against that of the king. Its object is to establish the rights of the lesser nobility, the gentry, a very large and bellicose class.*

SOURCE—C.J.H., pp. 130 *et seq.*

IN the name of the Holy Trinity and Undivided Unity. Andrew, by the grace of God, of Hungary, Dalmatia, Croatia, Rama, Servia, Galicia, and Lodomeria, King. . . .

1. We ordain that we are bound to hold a solemn session of our court annually on the feast of the sainted king [1] at Alba,[2] unless we shall be prevented by pressure of business or by sickness. And if we cannot be present ourself, the palatine [3] will certainly be there on our behalf, and in our place he will hear the pleas. And all the gentry who so desire may freely attend.

2. Also we will that neither we nor our successors shall at any time seize the gentry or their property from favour to any powerful magnate, unless they shall have been previously cited and convicted by due course of law.

3. Further we will cause no contribution or money taxes to be collected from the estates of the gentry. Nor will we visit their houses or manors unless invited. And we will impose no contribution whatever on the tenants of churches.

7. And if the king shall wish to lead the army out of the kingdom, the gentry shall not be bound to go with him, except at his expense. . . . But if a hostile army shall attack the kingdom, all alike shall be bound to serve. . . .

8. The palatine shall have jurisdiction over all men of the kingdom without distinction. But cases concerning the gentry, which involve loss of the head or confiscation of property, he shall not be able to decide without the knowledge of the king. . . .

11. If foreigners, being good men, come to the kingdom, they shall not be elevated to dignities without the consent of the kingdom.[4]

13. Magnates, whether following the court or whithersoever they go, shall so bear themselves that the poor are not oppressed or despoiled by them.

14. Further, if any *ispán* [5] shall not behave himself

[1] St. Stephen, first king of Hungary (1000–1035).

[2] *i.e.*, Székes-Fehérvár or Stuhlweissenburg.

[3] The King's chief officer; like the English justiciar.

[4] 'The kingdom' here, as in § 14, means all those present at a solemn session of the king's court (see § 1).

[5] Latin, *comes*; equivalent to the English sheriff, *vicecomes*; the governor of a county, appointed by the king.

honourably according to the quality of his rank or shall oppress the people of his castle, and if convicted on this count, he shall be disgraced and deprived of his dignity in the presence of the whole kingdom and shall restore what he has seized.

16. We will never confer whole counties or any high dignities as [hereditary] estates or possessions.

20. Tithes shall not be discharged in money, but paid in wine and crops as the earth yields them. And if the bishops object, we will not support them.

24. The officers of the treasury and the masters of the salt-houses and customs shall be gentry of our kingdom. Ishmaelites and Jews cannot hold these offices.

28. If anyone be condemned by due process of law, no magnate shall be allowed to defend him.

30. Further, except these four great officers, the palatine, the ban,[1] and the court judges of the king and queen, no one shall hold two dignities.

31. . . . If we or any of our successors at any time shall propose to infringe this our decree, both the bishops and the other magnates and gentry of the kingdom, all and singular, present and future, shall always, by the authority of these presents and without suspicion of any disloyalty, have full liberty to resist and oppose us and our successors. . . .

58. FREDERICK II'S LETTER TO CATHOLIC KINGS, 1227

Frederick was excommunicated on September 29, for not carrying out his promise of a crusade; and, as he affected to ignore the sentence, it was repeated on November 18. Frederick held a Diet of his kingdom at Capua in the same month, imposed taxes for the crusade which he proposed to carry out in the subsequent May, and ordered a Diet of the Empire to meet for that purpose in March at Ravenna. At the same time he issued letters 'to all crusaders', justifying his conduct, and the

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[1] The governor of Croatia, which kingdom had fallen to the Hungarian kings in 1102.

letter given below (as reported by Matthew Paris), addressed to Henry III of England and other Catholic kings.

SOURCE—Matthew Paris, *Chronica majora* (Rolls Series), Vol. III, pp. 151–3, quoted in Huillard-Bréholles, Vol. III, pp. 48–50.

HE sent letters sealed with gold to the king of the English, amongst other Catholic kings, declaring that the Roman Church was so fired with avarice and manifest covetousness that, finding its ecclesiastical property not sufficient for its desires, it did not blush to disinherit kings and princes and to make them its tributaries. Let the king of the English consider an example of this from his own experience; for the Roman Church kept his father, King John, excommunicate until it brought him and his kingdoms under tribute. And let all consider the similar example of the count of Toulouse and many other princes, whose lands and persons it strives to hold under interdict until it bring them under a like servitude. We pass over the simonies, the diverse exactions, for ages unheard of, which they constantly impose on ecclesiastical persons; the usuries open and secret, and hitherto unknown, with which they poison the whole world. Their words are sweeter than honey and smoother than oil. They are insatiable blood-suckers, declaring that the Roman court is the Church, our mother and nurse; whereas the said court is the root and source of all evils. Its behaviour is not that of mother, but of a stepmother, as it clearly proves by its known fruits. Let the noble barons of England consider this, whom Pope Innocent encouraged with sealed letters to rise against King John as an obstinate enemy of the Church. Yet, when the said king utterly abased himself and like an effeminate creature surrendered himself and his kingdom to the Roman Church, the said Pope, laying aside respect for men and fear of God, spurned the nobles whom before he had supported and encouraged. He left them in peril of death and of the misery of disinheritance, in order that, alas! in the usual Roman manner, he might swallow the choicest morsels with his ravening maw. And so it came about by the avarice of the Romans that

the first of the nations was brought under tribute. Behold the ways of the Romans ; behold the snares prepared for prelates, whereby the Romans attempt to trap them one and all, to obtain their money, to destroy their liberty, to disturb their peace. They wear sheep's clothing, but within they are ravening wolves. They send legates here and there, with power to excommunicate, to suspend, to punish ; not to sow the fruitful seed, which is the word of God, but to extort money and to gather and reap that which they never sowed. And thus it comes about that they pillage the sacred churches, the refuges of the poor, the homes of the saints, which our pious and single-minded fathers founded for the relief of the poor and of pilgrims and the support of religious. And now these degenerate and contemptible creatures, puffed up by their skill in letters, insolently fix their desires upon empires and kingdoms. The primitive church was founded in poverty and simplicity, and then she produced lavishly the saints whom the calendar commemorates. But other foundation can no man lay save that which is laid and established by the Lord Jesus.[1] Now that they swim in riches, they wallow in riches, they build on riches, it is to be feared that the walls of the Church will fall, that the structure will collapse in ruins. 'And against us, as He who observes all knows, they are unjustly raging ; declaring that we were unwilling to cross the sea at the fixed time ; whereas, quite apart from my illness, much difficult and necessary business, connected with the Empire and the Church, detained us. In the first place there was the insubordination of the Sicilian rebels ; and it did not seem to us to be prudent or advantageous to Christendom for us to make the voyage to the Holy Land, leaving a civil war behind us ; just as no doctor would apply a dressing to a wound, while the iron was still in it.'

Finally he concluded thus, exhorting all the princes of the world to beware of such great avarice and iniquity,

[1] 1 Cor. iii. 11.

because ' You are closely concerned, when your neighbour's house is afire.' [1]

59. THE PEACE OF ST. GERMANO, 1230

Frederick II is said by the chronicler, Conrad of Ursberg, to have asked Leopold, Duke of Austria, and other German princes to mediate between himself and the Pope. In March, 1230, Leopold and a group of the princes entered Italy, interviewed the Pope and assured him that, if agreement could be reached upon the terms of peace, they would guarantee their observance. The princes then exerted pressure on Frederick, who was much discredited by the published accounts of his conduct of the crusade, to accept the papal terms. By the end of July the papal legates were able to report that they had received the Emperor's oath to carry out, and the princes' oaths to enforce, the terms of peace. Below are given (a) the guarantee of the princes, and (b) the papal terms offered to Frederick by the legates and witnessed by other prelates at Ceprano in August. Frederick and his supporters were relieved of their excommunication on August 28. On September 1 Pope and Emperor met outside Anagni, entered the city in state and dined together apparently on the best of terms.

(*a*)

SOURCE—Text in Huillard-Bréholles, Vol. III, pp. 210–11.

IN the name of the Lord, Amen. Bertold, Patriarch of Aquileia ; Eberhard, Archbishop of Salzburg ; Siegfried, Bishop of Regensburg ; Leopold, Duke of Austria and Styria ; Bernard, Duke of Carinthia ; and Otto, Duke of Meran ; by God's grace princes of the Empire. By this letter we announce to all that an agreement has been reached between our lady and mother, the most holy Roman Church, and our serene lord, Frederick, Emperor of the Romans, ever august, King of Jerusalem and Sicily, to the effect that . . . negotiations shall be conducted to discover means for the return to the said lord Emperor, without prejudice to the honour of the Church, of the cities of Gaeta and St. Agatha [2] and of all those (with their possessions), whom the Church has received into her

[1] ' *Tunc tua res agitur, paries cum proximus ardet.*'
[2] St. Agatha is between Capua and Benevento.

allegiance and who remain loyal to her.[1] The period assigned for the negotiations is one year, unless a solution is found before that. The said mother Church has promised to devote her earnest endeavours to reach a solution. Negotiations shall not be continued beyond the period named, except by consent of both parties. If, however, by misfortune no solution can be reached within the said period, thereafter the attempt to reach an agreement shall be continued by mutually accepted arbitrators, of whom two shall represent the Church and two the lord Emperor. If they fail to agree, they shall elect a fifth and the question shall be decided by the word of the majority.

And the lord Emperor has given his oath (by Thomas of Aquino, Count of Acerra, swearing, by the Emperor's order, on the Emperor's soul) that meanwhile he will not molest the said lands and men, whether in their persons or their property, nor permit them to be molested by his agents; and that he, the lord Emperor, will accept the solution which shall be reached by negotiation between the holy Roman Church and himself or by the arbitrators.

We also announce that the lord Emperor remits all guilt and penalty to the Germans, Lombards, Tuscans, and men of the kingdom of Sicily in general, and to the Frenchmen, and to all others who have held by the Roman Church against him. And he has caused the said Count of Acerra to swear on his soul that he will never molest any of the said persons nor allow them to be molested for having assisted the Roman Church in her contest with him. The lord Emperor withdraws the sentences, decrees and bans, which have been passed or published against them, for any such reason, by himself or others. He also promises that neither of himself nor by others will he invade or devastate the lands of the Church in the Duchy [2] or the March [3] or in any other patrimony of the Church, as is fully contained in the letters written by the lord Emperor

[1] *i.e.*, those in the kingdom of Naples who had gone over to the Pope. [2] *i.e.*, Spoleto. [3] *i.e.*, Ancona.

himself on all the foregoing matters and sealed with golden bulls stamped with the image of his majesty.

Nevertheless we have sworn, upon the holy gospels, in good faith to cause the said lord Emperor to observe these conditions and not to violate them. If he should violate them and not make amends within three months in the kingdom of Sicily, or four months in Italy, or five months elsewhere than in Italy, potently and patently we will assist the Church, at her request, against the lord Emperor, until he shall make amends.

And if the Emperor is responsible for not choosing arbitrators or for preventing the arbitrators from proceeding with their duties, we shall be bound to help the Church, as is provided. But if the Church shall refuse to provide arbitrators or prevent them from proceeding, we shall not thenceforth be bound by the said oath with regard to this clause.

For a record of the matter we have caused this document to be written and confirmed with our seals.

Given at St. Germano, in the year 1230, the 23rd day of July.

(*b*)

SOURCE—Text in Huillard-Bréholles, Vol. III, pp. 218–9.

We, by the grace of God, . . . Archbishop of Arles, and . . . Bishops of Winchester and Beauvais, have been asked by the venerable fathers, John, by God's grace Bishop of Sabina, and Thomas, Cardinal priest of the title of St. Sabina, legates of the apostolic see, to write letters in testimony of what we have heard and seen of their conduct in the matter of the absolution of the lord Emperor. We therefore bring to the notice of all that the said lords legates presented the following demands to the lord Emperor in this form :—

We, John, by God's grace Bishop of Sabina, and Thomas, by the same grace Cardinal priest of the title of St. Sabina, legates of the apostolic see, by the authority of the lord Pope, demand of the lord Emperor—that he shall neither of himself nor through others henceforth prevent elections,

postulations [1] and confirmations of churches and monasteries from being freely made in the kingdom according to the decrees of a general council. That, according to the form of agreement, he shall make satisfaction to the Counts of Celano and to the sons of Rainald of Aversa in those matters regarding which the Church gave security. That he shall make satisfaction for the seizure of goods and injuries and losses inflicted on the Templars, Hospitallers and other ecclesiastical persons, within suitable periods to be fixed by the Church. That for eight months from the day of his absolution he shall give security in good faith to the Church by means of suitable sworn guarantors. These shall be nominated by the Church from among the princes, counts and barons of Germany, the communes of the cities of Lombardy, Tuscany, the March and Romagna, the marquises, counts and barons of those provinces. They shall be bound to assist the Church, at her request, against the Emperor, until he shall make satisfaction, if he does not obey the commands of the Church, or if he breaks the peace, or if he seizes, holds or devastates the land of the Church or the lands or persons of those under her protection, and has not provided for amendment within three months if he be in the kingdom, or four months if in Italy, or five months if out of Italy. They shall guarantee this to the Church by charters furnished with their seals. We also command him to send to the Curia within fifteen days an envoy, who shall receive the names of those whom the Church requires as guarantors.

All the above we command him. And all his obligations formerly undertaken with regard to the recovery of the Holy Land remain in full force, binding him to make satisfaction in that matter as the Church shall ordain.

If any point among the commands, which we should have laid upon him, has been omitted by us through preoccupation or carelessness, it shall be reserved to the lord Pope.

[1] Petitions for dispensations in favour of persons who by Canon Law are incapable of being advanced to some ecclesiastical dignity.

They also added a declaration as follows :—We declare that the lord Pope desires the repayment to himself of the expenses which the Church has been obliged to incur outside the kingdom for the defence of ecclesiastical liberty and of the patrimony of St. Peter.

They also pronounced sentence of excommunication in this form :—If the lord Emperor does not give security in good faith by guarantors as is commanded to him ; if he does not observe the peace settlement which shall be made by mutual agreement or by arbitration, as is contained in the armistice terms ; if he seizes, holds or devastates the land of the Church or the lands or persons of those under her protection ; then he shall *ipso facto* incur the sentence of excommunication which we have now issued against him by the authority of the lord Pope.

Done at St. Justa near Ceprano, 1230, on the feast of St. Augustine [August 28].

60. FREDERICK II'S STATUTE IN FAVOUR OF THE PRINCES, MAY, 1232

Frederick II spent little time in Germany, which he left to the rule of Engelbert, Archbishop of Kōln and regent for Frederick's young son, King Henry. In November, 1225, the Archbishop was murdered, and Henry, who began his personal rule in 1229, did so under the influence of princes who were jealous both of a central government and of the rising strength of the towns. At Worms in May, 1231, Henry promulgated a series of privileges in favour of the princes, describing them as 'lords of the lands' and almost excluding the royal authority from their territories. Frederick II held a Diet in Friuli in March, 1232. Henry, then hostile to his father and supporting the towns, at first refused to attend ; but he arrived at Cividale in April, made his submission and resumed his pro-princely policy. Frederick then confirmed, in the following document, the privileges granted at Worms.

SOURCE—M.G.H. *Leges*, Sect. IV, Vol. II, pp. 211–3. Text in A. and B., p. 23 (No. 10).

IN the name of the Holy and Undivided Trinity. Frederick II, by the favour of the divine mercy Emperor of the Romans, ever august, King of Jerusalem and Sicily.

. . . Therefore this present age and future posterity shall know that, being with our beloved son, Henry, King

of the Romans, at Cividale in Friuli, and being petitioned by the princes and magnates (of whom a multitude, highly esteemed by us, was there present) to confirm with the sanction of our authority the grant made to them by the same our son the king in full court at Worms, we have thought fit to accede to their prayers, inasmuch as we propose by their elevation not unworthily to promote the interests of ourself and our empire. . . . 1. No new castle or city shall be erected by us or anyone else, on any pretext whatever, on the lands of churches or in virtue of jurisdiction. 2. New markets may not in any way adversely affect old ones. 3. No one shall be compelled to attend any market against his will. 6. Every prince shall enjoy in peace and according to the approved custom of his land his liberties, jurisdictions, counties and hundreds whether free or enfeoffed.[1] 7. The counts of hundreds shall receive their hundreds from the lord of the land [2] or from him who shall have been enfeoffed by the lord of the land. 8. None shall change the meeting-place of the hundred court without the consent of the lord of the land. 9. No noble shall be summoned to the hundred court. 10. The townsmen, who are called *Pfahlbürger*,[3] shall be expelled [from the towns]. 12. Men who are the property of princes, nobles, ministerials [4] or churches shall not be received in our towns. 14. The princes' right of granting safe-conducts throughout their land, which they hold in fee from us, we will not suffer to be impeded or infringed by us or by our officers. 16. No one, who is a danger to the land,[5] or has been judicially condemned or proscribed, shall be received in our towns. 17. We will not cause

[1] *i.e.*, whether directly controlled by the prince himself or sub infeudated

[2] *A domino terre.*

[3] *i.e.*, men resident outside towns, but possessing rights of citizenship within. See p. 155.

[4] Originally unfree tenants of great lords. Owing to their service, administrative and military, in the households of their lords, they became a class of lower nobility.

[5] *i.e.*, the territory of the prince.

money to be struck in the land of any prince, so that the money of the said prince be thereby depreciated. 18. Our towns shall not extend their jurisdiction beyond the circuits of the towns, except where any special jurisdiction appertains to us. 20. None shall receive in pawn property, with which anyone has been enfeoffed, without the consent and approval of the princely overlord.

61. A CONVENTION OF THE RHENISH LEAGUE, OCTOBER 6, 1254

The anarchy which prevailed in Germany after the death of Frederick II, 1250, *made it necessary for the towns to protect themselves and their commerce, and also enabled them to develop their independence. The leading towns of the Rhineland from Basel to Köln united to form a league for ten years from July* 13, 1254. *It was open to neighbouring bishops and lords to join them; which many did. In the following document we see the league, shortly after its formation, legislating for the promotion of peace and commerce.*

SOURCE—Text in Keutgen, p. 81. And in A. and B., p. 253 (No. 122).

. . . In the year 1254 on the octave of Michaelmas we, the upper and the lower cities [of the Rhine], leagued together for the maintenance of peace, met in the city of Worms. . . . To the honour of God and of holy mother church and of the holy empire, over which is now set our serene lord William, King of the Romans, and for the common interest of rich and poor alike, we ordained these laws to be inviolably observed and to be enjoyed by poor and great, secular clergy, religious, laymen and Jews. . . .

Joined with us were the princes and lords of our league.

1. First we ordain that we will make no wars, except such as are approved by wise and united counsel of the cities and held to be supremely necessary. We will aid each other with our forces and share our burdens equally.

2. We provide that no victuals, arms or other assistance shall be given by any city or lord of our league, by Christians or by Jews, to any lord who resists our sworn peace.

3. That no credit or loan be granted in our cities to those who oppose the peace and us.

6. We will that all the cities take to themselves the boats at the neighbouring ferries, so that there may be no ferries except at the cities of the league, and so opponents of the peace shall have no means of crossing the Rhine or drawing profit therefrom.

12. Further, that all letters on this matter shall be written from the city of Mainz to the cities of the lower Rhine, and from the city of Worms to those of the upper Rhine. All claims and our other business shall be set forth, and our oppressors warned, in letters from those cities. . . .

13. . . . that lords and cities shall send four official envoys, deputed for that purpose, or part of them, . . . to whatever place we appoint for a conference. And these shall enjoy full authority from their cities to decide on all matters, and shall report the decisions there taken to their cities. And all who accompany the envoys of the cities, or come to join them, shall enjoy the peace, so that they cannot be arrested on any plea.

14. . . . that no city shall admit non-resident citizens commonly called *Pfahlbürger*.

15. . . . that, if any sworn member of the league infringe the peace, we will proceed against him more swiftly than against an outsider and will compel him to make adequate amends.

18. . . . that each city shall demand and require of its neighbours, who have not yet sworn to the peace, that they take the oath of peace. If they fail to do so, they shall be entirely excluded from the peace; and no one shall be held to have violated the peace, if he injures them in their persons or property.

20. . . . that the cities between the Moselle and Basel shall equip 100 vessels of war, and the cities of the lower Rhine 500 vessels of war, in good condition and with archers. And each city shall equip itself according to its power with arms, horsemen and infantry.

62. AN EARLY DECREE OF THE HANSEATIC LEAGUE, *c.* 1260

German urban civilization was based on the line of the Rhine, stretching from the Alps to the Low Countries. Thence it spread eastwards in many directions, particularly down the Danube and along the north coast of Germany. In the thirteenth century there was no dominating north German principality; and consequently the famous Hanseatic League of cities arose, under the leadership of Lübeck.

SOURCE—Text in *Hanserecesse*, I, p. 4. And in Keutgen, p. 522.

WE wish to inform you of the decision taken after discussion in aid of all merchants who enjoy and are ruled by the law of Lübeck.

1. First that each city shall do its utmost to defend the sea against pirates and other ill-doers so that merchant mariners may freely carry on their business.

2. If anyone for a misdeed be expelled from one city, he shall not be received in any of the others.

3. If a burgess be captured, he shall not be ransomed by any payment, but his sword-belt and knife shall be sent to him.[1]

4. No merchant shall ransom another who has been captured, nor receive payment on account of the latter's debts, under penalty of losing his property in his own city and in all cities where the law of Lübeck prevails.[1]

6. If any lord besieges a city, no other city shall help him, unless he be its lord.

7. If there be war in the land, no city shall on that account injure a burgess from the other cities, in person or goods, but shall assist him in good faith.

8. If a man marries a woman in any of these cities, and his first wife arrives and claims him and can prove by adequate witnesses that he is her lawful husband, he shall be beheaded. . . .[1]

These decisions shall hold good for one year; and what

[1] These drastic provisions did not apply to burgesses captured in formal war. They are striking applications of the motto *Navigare est necesse, vivere non est necesse,* over the door of the guild house at Bremen.

shall be done thereafter shall be intimated by letters from city to city.

Given at Wismar on St. John Baptist's day.

63. A REPORT ON THE CONDITION OF CENTRAL EUROPE, DECEMBER 6, 1273

The following passage is taken from a long report sent by Bruno, Bishop of Olomuc, in Moravia, to Gregory X, at the latter's request. It deals with the general situation in Germany and Central Europe, It was intended to provide information for the fathers gathering at Lyon for the General Council of 1274.

SOURCE—Text in Emler, Vol. II, p. 342 *et seq.*

. . . this curse is everywhere present, that both spiritual and temporal men fear the yoke of superiors and, when they come to elections of kings and even prelates, they either elect persons who ought to be under, not over, them, or they vote dividedly for different persons. For this there are probably two causes: first that they can get more out of several men than out of one, and secondly that, if one ruler should desire to proceed according to the strict law against them, they may be defended by the other. Observe, reverend father and lord, examples of this before your eyes and ours, one in the past and one of to-day; the former is that of the election of the King of Spain and of Count Richard; the latter of the King of Spain and Count Rudolf. We write thus to you, because from the first letter, which you wrote about the Council being held chiefly with reference to one point, namely the relief of the Holy Land, it appears that such relief is rendered impossible because of the confused condition of the Empire. We believe that the chief work of reformation by the Council would be the elevation, if possible, by your advice and with the help of the Council, of an Emperor, who should powerfully impose peace on the world and then in his own person carry out that undertaking [*i.e.* crusade]. But it seems, if I may say so, reverend lord, that both the spiritual and temporal princes detest the power of an Emperor. . . .

And these are the dangers threatening Christendom

from the kingdom of Hungary. First that the Cumans[1] are settled in that kingdom and are not only foreign, but bitterly hostile, to the inhabitants. . . . Then in that kingdom open heretics and schismatics, refugees from other countries, are favoured. The Queen of Hungary[2] is a Cuman ; her nearest relatives have been and are heathen. Two daughters of the King of Hungary have been affianced to Ruthenes, who are schismatics. . . . The Lithuanians and Prussians, as true heathen, have utterly destroyed several bishoprics of Poland. . . . I will not speak of the princes of Germany, for they are so divided amongst themselves that they will not agree to have a common superior, since each of them seems to expect that another will desolate and destroy his land. Hence they are wholly useless for the defence of Christendom in our own lands or for the recovery of its losses overseas. The defence of the Christian faith in our parts seems to lie solely with the kingdom of Bohemia. . . .

64. DECISIONS OF THE DIET OF NÜRNBERG, NOVEMBER 19, 1274

At the opening of his reign King Rudolf attempted to recover at any rate some of the crown property lost during the interregnum. At his first solemn court, held at Speyer in December, 1273, it was ordered that all usurped property of the crown should be restored, and the royal officials were ordered to make inquiries and to recover such property. At the Diet of Nürnberg in November, 1274, he obtained a confirmation of this policy from the German princes, and, in particular, their approval of vigorous steps against Ottokar, King of Bohemia. But as most of the lost crown property was in the hands of Rudolf's supporters, his efforts to recover it were fruitless. Indeed, as he seriously devoted himself to the costly task of recovering the Austrian lands from Ottokar, he was himself forced to alienate crown property.

SOURCE—Text in A. and B., pp. 31–3 (No. 16). Translation in Henderson.

IN public session at the time of the solemn court of the king, held at Nürnberg, to do justice to all and sundry, in the presence of the princes and the noble assembly of counts and barons and a great multitude of nobles and of

[1] A Mongolian tribe settled north of the Danube, on the eastern borders of Hungary.

[2] Elizabeth, widow of Stephen V.

the commonalty, before the most serene lord Rudolf, King of the Romans.

First, the king asked for a decision on this question; who should be the judge, if the King of the Romans wished to bring an accusation against any prince concerning the property of the Empire or its fiscal rights or any injuries done to the kingdom or the king. It was decided by all the princes and barons present that the Count Palatine of the Rhine has, and has had from of old, jurisdiction over accusations which the Emperor or King wishes to bring against a prince of the Empire.

The Count Palatine therefore took his seat as judge, and the king asked first for a decision on what he could lawfully do and what he ought to do concerning the property which the sometime Emperor Frederick possessed and held in peace and quiet before the sentence of deposition was pronounced upon him; and concerning other property lost at other times to the Empire and forcibly retained by various persons. It was decided that the king ought to take up the matter of all such property and bring it under his own authority again; and if anyone dared to oppose the king's effort to recover such property, the king ought with the royal power to punish such illegal violence and to preserve the rights of the Empire.

Secondly, the king asked for a decision as to the law in the case of the King of Bohemia, who had been guilty of contumacy in that he had allowed more than a year and a day to elapse since the day of the coronation of the King of the Romans, celebrated at Aachen, without asking for or receiving his fiefs from the King of the Romans. It was decided by all the princes and barons that whoever without lawful cause and by negligence or contumacy remained a year and a day without demanding to be infeoffed with his fiefs, by the mere lapse of time lost his title to all his fiefs.

Thirdly, the king asked for a decision as to how he ought to proceed against the King of Bohemia and to punish his contumacy. It was decided that the count palatine of the Rhine ought to cite the said king by a freeman to a fixed

place at an appointed day, which should be within six weeks and three days from the day of this decision, that he might make his final reply to the king's accusation of contumacy. And if the freeman selected to serve the citation asserted on oath that through fear (which may happen even to a brave man) he dared not present himself to the King of Bohemia in person or even to enter the king's territory, it should suffice that a public edict be pronounced in solemn session of the court and the citation be publicly made in the city or town of the said count palatine nearest to the kingdom of Bohemia. . . .

Further, by the decree and counsel of the princes it was ordained that the lord King of the Romans ought to take cognizance of civil and criminal pleas arising at and after the time of his coronation; and also of all civil pleas, which originated before his coronation, concerning hereditaments, fiefs, possessions and property, unless already settled by process of law or amicable arrangement.

Also, with regard to usurpations, thefts, injuries and damages inflicted in the time of Frederick, sometime Emperor, by the rival supporters of the Pope and the Empire, the lord King proposes to confer with the Pope as to what shall be done to the rival parties, in accordance with what seems to both the Pope and the King to be equitable.

Also the lord King requests and urges all those who have been guilty of robbery, arson or theft, from the death of Frederick, sometime Emperor, until the coronation of the king, to open friendly negotiations and come to a settlement with those whom they have injured. He also requests the injured parties not to make difficulties over accepting compensation; otherwise the king will decide what is equitable. The above does not apply, however, to those who have been highway robbers and plunderers of churches, or waged open war. All such shall be brought to justice without delay. . . .

He also provided that in no city of the Empire should there be citizens of the class commonly called *Pfahlbürger*.

65. THE ELECTORS' CONFIRMATION OF RUDOLF'S SURRENDER OF IMPERIAL CLAIMS IN ITALY, 1279

Rudolf, owing his elevation to Papal support and aware that the Italian ambitions of his Hohenstaufen predecessors had resulted in undoing the imperial authority in Germany, determined to cut the Empire's losses in Italy and devote himself to consolidating his power north of the Alps. He consequently surrendered all the territories which had been in dispute between Papacy and Empire for the previous two centuries. The German Electors confirmed his act.

SOURCE.—M.G.H., *Leges*, Sect. IV, Vol. III, p. 213. Text in A. and B., p. 34 (No. 19).

WE, the princes of the Empire, to all who shall see this present document.

The mother-church of Rome, from of old embracing Germany with a special love, has adorned her with that title of earthly dignity which is above every name of the temporal rulers of the earth. In Germany she has established princes like choice trees ; she has fostered them with her special grace ; and given them such increase of wondrous power that, supported by the authority of that church, by their election they brought forth a choice fruit, namely him who controlled the Roman Empire. In the firmament of the church militant he is that lesser luminary which is irradiated by the greater luminary, Christ's vicar. At the bidding of the latter, he draws and sheathes the material sword ; so that, supported by his protection, the pastor of pastors may with the spiritual sword join in protecting the sheep entrusted to him, while with the temporal sword he may restrain and correct, to the punishment of evildoers and the approval of the good and faithful.

Therefore, that all cause for dissension and trouble or occasion for ill-will between that church and the Empire may be removed, and that these two swords, established in the Lord's house, may be joined together in due alliance and operate for the sound reformation of the whole world ; and that we, who are bound to support both church and Empire, may show ourselves in will and deed to be sons of piety and peace ; we approve and ratify all the confirma-

tions, ratifications and renewals, all the new grants and concessions made by our lord Rudolf, by the grace of God King of the Romans, ever august, to our most holy father and lord, the lord Pope Nicholas III, to his successors and to the Roman church . . . and especially with regard to the fidelity, obedience, honour and reverence owed by the Roman Emperors and kings to the Roman Pontiffs and to that church ; and with regard to the possessions, honours and rights of that church, in particular over all the land which extends from Radicofano to Ceperano, the march of Ancona, the duchy of Spoleto, the land of the Countess Matilda, the city of Ravenna, Emilia, Bobbio, Cesena, Forlimpopoli, Forli, Faenza, Imola, Bologna, Ferrara, Comacchio, Adria, Gavello, Rimini, Urbino, Montefeltro, the territory of Bagno, the county of Bertinoro, the exarchate of Ravenna, Pentapolis, Massa Trabaria, with their adjacent lands and all other appurtenances of the said church . . . and also over the city of Rome, and the kingdom of Sicily, with all its appurtenances, both on this side of the straits of Messina and on that ; as also over Corsica and Sardinia and over the other lands and rights pertaining to the said church. . . .

Done and given in the year of the Lord 1279, in the sixth year of the reign of our lord Rudolf, the glorious King of the Romans.

[Then follow the seals of Henry, Archbishop of Trier ; Siegfried, Archbishop of Köln ; Werner, Archbishop of Mainz ; Ludwig, Count Palatine of the Rhine, Duke of Bavaria ; John and Albert, Dukes of Saxony ; John, Otto and Otto, Margraves of Brandenburg.]

66. ELECTORAL CONSENT TO RUDOLF'S ENFEOFFMENTS, SEPTEMBER 22, 1282

This document, like the previous one, illustrates the development of the consensus principum *into a regular feature of German royal government. The Hohenstaufen Emperors had consulted the princes on points of feudal law. Formal approval by the princes of royal administrative acts began under King William (of Holland). Under*

King Rudolf the practice became established that for enfeoffments, grants of jurisdiction, tolls and so forth, the king needed the consent of the princes, which meant the consent of the Electors.

Letters, similar to that given below, were issued by the Count Palatine, Ludwig, and Henry, Archbishop of Trier. Letters in the same sense were written by Albert, Duke of Saxony, and Otto, Margrave of Brandenburg. Siegfried, Archbishop of Köln, had agreed earlier, in July, to any disposition made by Rudolf.

In December Rudolf enfeoffed his two sons with Austria, Styria, Carniola and the March.[1] *Carinthia was withheld and in* 1286 *was granted by Rudolf to Meinhard II, Count of Tirol, who had been administering the duchy for Rudolf. Thus were the Habsburgs established on the eastern border of Germany.*

SOURCE—M.G.H., *Constitutiones*, Vol. III, p. 327.

WERNER, by the grace of God, Archbishop of the holy see of Mainz, Archchancellor of the holy Empire for Germany, to all Christ's faithful who shall see the present letter, eternal greeting in the Lord.

. . . We expressly consent, and freely give our approval, that, whenever he [Rudolf of Habsburg] wills, he may grant and confer as fiefs the principalities of Austria, Styria, Carinthia, Carniola and the March,[1] with all their rights and appurtenances, which have long been alienated and separated from the Empire and have now been by him with much labour and blood restored to the power of the Empire, to his illustrious sons, Albert and Rudolf, who well deserve to be honoured in the said lands; and to this concession and enfeoffment now as at any time we give our free and spontaneous consent. . . .

Given at Boppard, September 22, 1282.

67. CONCESSIONS BY ADOLF, COUNT OF NASSAU, TO THE ARCHBISHOP OF KÖLN, APRIL 27, 1292

The following document contains selections from the promises made to Siegfried of Westerburg, Archbishop of Köln, in return for his vote in the election of the King of the Romans. It is a good example of the disadvantages of an elective monarchy. After 1280 *there was a disputed succession in the duchy of Limburg. One of the candidates sold*

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[1] The Slavonic or Wendish March, on the eastern border of Carniola.

his claims to the Duke of Brabant. Siegfried opposed the Duke, who was supported by the citizens of Köln. He was defeated in 1288 *at Worringen and remained a prisoner for eleven months, during which time his enemies seized many of his castles and revenues.*

SOURCE—Text in Krammer, p. 18. Also in A. and B., p. 38 (No. 24).

WE, Adolf, by the grace of God Count of Nassau. . . .

On the vacancy of the Empire by the death of the most serene prince, the lord Rudolf, of pious memory, King of the Romans, it had long been, and still is, our purpose and firm intention to offer an acceptable service to the Lord God, for the remission of our sins, as far as lay in our power, by bringing help to the Holy Land. Now, since we can better promote the glory of God and the recovery of the Holy Land, if by divine favour we, though unworthy, should be named and elected King of the Romans by the endeavours and labours of the reverend father and lord, Siegfried, Archbishop of the holy church of Köln, who is casting his vote for us, we promise and of our own free will bind ourselves . . . to what here follows. . . .

(2) We will accept our election and never surrender our right to the kingdom, acquired by the vote of the lord archbishop of Köln, even if some of the princes of Germany vote differently from the lord archbishop.

(3) Since the Empire cannot enjoy prosperity, unless the holy church of Köln, which now suffers many losses and injuries, be first delivered therefrom with the help of the Empire, we promise . . . that, if we are elected by our lord the archbishop, we will commit to him and his successors and the church of Köln the fortresses and strongholds of Cochem, Kaiserswerth, Landskron, Sinzig, Duisburg and Dortmund, for the better defence of the rights of the kingdom and Empire in those parts and of the church of Köln against its enemies. And we will deliver these places from those who now hold them that they may be held, owned and possessed, with all their rights, revenues, jurisdictions, tolls, produce and appurtenances, by the archbishop, his successors and the church of Köln in peace and quiet during our lifetime. . . .

(10) We promise that we will cause full amendment to be made to the archbishop and church of Köln by the citizens of Köln for their misdeeds. . . . Alternatively, as the citizens have been excommunicated for a year and a day and their offence is notorious, we will proscribe them and confiscate their goods, at the request of the archbishop, his successors and the church of Köln. And we will openly assist the archbishop, his successors and the church of Köln, with all our power and at our expense, against the citizens and their supporters. . . .

(11) We promise that, if a friendly agreement is made between the archbishop and the citizens of Köln of they submit to him, we will not interfere with the city or Köln nor take an oath of fealty from the citizens, since the city appertains of full right to the archbishop in matters temporal and spiritual.

(13) Since the archbishop, his successors and the church of Köln must incur necessary and useful expenses in the service of the Roman Empire, we promise to give 25,000 marks of silver to the archbishop and church of Köln for their expenses. . . .[1]

(15) We will not demand our coronation, consecration or installation at Aachen from the lord archbishop, nor will we trouble him on the subject, until we have given him full security for the faithful fulfilment of all these articles.

* * * * *

Given at Andernach, the Sunday before the feast of SS. Philip and James, Apostles, 1292.

68. THE CLOSING OF THE GREAT COUNCIL AT VENICE, FEBRUARY, 1297

The closing of the Great Council marked an epoch in the history of the Venetian republic and gave a sharp definition to that distinction between the gentiluomini (*the governing class*) *and the* popolani,

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[1] This clause proceeds with the pledging of numerous fortresses to the archbishop as security for the payment by Adolf.

which at Venice as elsewhere had previously been vague. Several unsuccessful efforts to restrict membership of the Great Council had been made, when at Michaelmas, 1296, *the Great Council agreed to a proposal for the use, after February,* 1297, *of a reformed procedure in the selection of its members. That procedure is given below. It was renewed in* 1299 *and became the established law of Venice. One object of the procedure was, no doubt, to preserve the character of the Venetian governing class from dilution by alien elements. It was provided in* 1315 *that male members of families represented in the Great Council should be registered as soon as they reached the age of eighteen with a view to election by the Quarantia.*[1] *Four years later anyone so registered was allowed to enter the Great Council at the age of twenty-five, if not elected before then. Thus the members of certain families came to have a hereditary right to seats in the Great Council. Nevertheless it will be observed that outsiders could also be put up for election; and it seems that the Great Council was constantly, if in small proportion, recruited from such non-hereditary elements. The parallel between the British Parliament of the eighteenth century and the Venetian Great Council, though not exact, is not unjustified. For interesting reasons to account for the unchallenged monopoly of political power at Venice by the* gentiluomini, *see Macchiavelli,* Discourses, *Book I, chapter* 6.

SOURCE—Text quoted in Romanin, Vol. II, p. 343.

ON the last day of February, 1296, it was voted in the Great Council that the elections for the Great Council from that date till the subsequent Michaelmas and for a year thereafter should be made as follows. All those, who have been of the Great Council during the four years past, shall be submitted to the Quarantia [1] one by one, and whoever receives twelve or more ballots [2] shall be of the Great Council until the feast of Michaelmas, and for one year thereafter, if approved at the said feast of Michaelmas by the same mode of individual election. And if anyone should lose his membership of the Council by going abroad, on his return he shall be entitled to demand of the Heads of the Quarantia who control the procedure of that body, whether that body thinks that he ought to be of the Great Council or not. And the Heads of the Quarantia

[1] The chief criminal court, with forty members, established in 1179.

[2] Golden balls, signifying approval of a candidate.

shall be bound to put the question ; and, if he receives twelve or more ballots, he shall be of the Great Council.

Further, three electors shall be chosen, who shall have power to elect other persons, who have not been of the Great Council, in accordance with the instructions which shall be given them by the lord Doge and his Council. And those, whom these three shall elect, shall be submitted to the Quarantia one by one ; and whoever receives twelve or more ballots shall be of the Great Council.

And the three said electors shall be of the Great Council until the feast of Michaelmas ; and three others who shall be chosen at the feast of Michaelmas shall hold office for one year and be of the Great Council.

These provisions cannot be rescinded except by the will of five of the [Doge's] Councillors and twenty-five of the Quarantia and two-thirds of the Great Council.

And fifteen days before the end of the year the question shall be submitted to the Great Council whether this procedure shall be continued or not ; and as the Great Council decides, so shall it be established. . . .

And the Heads of the Quarantia shall be bound to give the members of the Quarantia three days' notice before proceeding to consider anyone's candidature for the Great Council ; and they shall not declare anyone elected to the Great Council unless there were at least thirty of the Quarantia present at the election.

69. THE CORONATION OF LUDWIG IV AT ROME, JANUARY, 1328

Ludwig IV held his court at Trent in the first months of 1327 *and gathered round him a large number of Italian Ghibelline leaders and anti-papalist writers, such as Marsilius of Padua, Jean of Jandun and some of the spiritual Franciscans. On March* 15 *he set out for Lombardy. On April* 3 *Pope John XXII pronounced Ludwig deposed and deprived even of his duchy of Bavaria, and cited him to appear for trial before the Papal Court within six months. This did not prevent Ludwig from assuming the iron crown of Lombardy in Milan on Whitsunday, May* 31, *and proceeding towards Rome. His advance was more leisurely than the account given by Mussato suggests. He cap-*

tured Pisa after besieging it from September 6 to October 8, and only reached Rome on January 7, 1328. The imperial coronation took place on January 17. The crown was placed on his head by that old opponent of the Papacy, Sciarra Colonna, who as prefect of the city would in any case have had the duty of handing the crown to the Pope to place on the imperial brow.

Albertino Mussato was a prominent citizen, lawyer and writer of Padua, and friend of Marsilius. Exiled as a result of internal disputes of his native city, he died at Chioggia in 1330.

SOURCE—Albertinus Mussatus, *Ludovicus Bavarus* in F.R.G., Vol. I, pp. 173–7.

AT this time the Romans, who had for long been deprived of the Roman court, to their great loss and indignity, first sent envoys to the supreme pontiff at Avignon to ask that he and the curia should return to Italy and to Rome. . . . But if, as on several previous occasions, he refused and deserted his widowed see, they would receive in their city Ludwig, called King of the Romans, although he bore the title and name of King of the Romans; so that Rome, the head of the world, should not lose her chief glory. And as far as they were able the Romans would arrange to see and cherish, to honour and revere both thrones, the spiritual and the temporal, in their city; and all the world should behold the imperial aspect of the city of Rome. . . . For several days the Pope kept the envoys in suspense with ambiguous phrases; and when they asked for a decisive answer, he replied that some delay was necessary until an opportunity more acceptable to the Roman church should arrive. Let them go, he said, and keep faith with their mother church. They were not unaware that they had ever been nourished and supported by the great favours of mother church, against the hostility and treachery of the Roman Empire and Emperors. . . . Thoroughly dissatisfied with the Pope's answer, the envoys departed and took their way to Rome.

Disappointed and feeling themselves deceived by the Pope, the Romans by common consent then sent envoys to Ludwig. Let him come to Rome. He should freely rule the Romans and his empire. They promised that they would serve him with sword and fire and in all obedience.

Thereupon Ludwig, accepting the favourable turn of events, left Milan, crossed Lombardy by the shortest route, came by the plain of Luna to Pisa, and thence, marching rapidly, reached Rome in a few days. There the Roman people, rejoicing as though God had come to them from on high, received him with great excitement and much cheering.

At that time Stephen Colonna and Poncello Orsini, who had both been knighted by King Robert,[1] and because they were suspect on that account, absented themselves from the king's entry into the city. . . . But Sciarra, Stephen's brother, a populist partisan and zealous supporter of the Emperor and the imperialist party, stood by the people in all circumstances. He detested Stephen and Poncello, and gave his support and counsel to Ludwig. And so, while the people acclaimed Ludwig by the title of King of the Romans and shouted 'Long life and reign to him,' he and his queen were enthroned together on the capitol; and thus was granted to the people and mob [2] of Rome the power to take counsel for the affairs of the Empire and to decide matters of state.

The mob and the people, as their habit always is, delighted in novelty, and began not only to applaud Ludwig, but also to denounce Pope John, publicly to accuse him of iniquity and even to deny that he was Pope. They brought new accusations against him. Then the cry arose among the mob and spread to the people: 'Pope John is reprobate and not to be held for Pope. A new Pope must be made, who shall create for himself a body of new cardinals. . . . He shall anathematize that John who beyond the mountains makes sport of the Church. He shall be honoured and held in reverence by the Romans and by all the world. He shall be obeyed above all. And both tribunals, the temporal and the spiritual, shall

[1] Robert, King of Sicily, had been appointed permanent senator of Rome; but his Guelf supporters had just been overthrown in the city.

[2] The words are *populus*, the governing class, and *plebs*, the lower class.

have their seat in Rome. . . .' This demand grew so strong that by general consent they referred the matter to Ludwig, their King, and urgently required its fulfilment.

Ludwig, not rejecting his good fortune, laid the matter before the magnates of his court, whom he had brought with him from Germany, to hear their views. Amongst them were two Italians, who had actively supported his elevation and devoted themselves to his cause and on whose counsel he especially relied: Marsilius de Raymundinis, a plebeian citizen of Padua, who was learned in philosophy and eloquent; and Ubertinus of Casale, a Genoese religious, also a man of great astuteness and intelligence. By the advice of these two and of the rest of his court it was decided to accede to the arguments and demands of the Roman people. . . . It was for them to decide. The pronouncements of their senate and tribunate were to be obeyed in all things.

Thus amid the madness of the Roman people, excited by these novelties, sentence of excommunication was pronounced against Pope John XXII, his person and his acts . . . and an edict of the senate and people of Rome was promulgated to the effect that 'John, hitherto called Pope, as being a schismatic, godless and a heretic, is deprived, reprobate and condemned.' In the document various causes were given, which they asserted were convincing and manifest, amongst them one which ought here to be explained.'[1] . . .

Then, after the Romans, under the leadership of Ludwig, their king and prince, had assumed the supreme legislative authority, so that whatever they decreed should have the force of law, and after they had deposed and recalled John, with much pressure they induced a man of the Minorite [2] order, of known good life, Peter of Corvara, to accept

[1] The author here explains that there had long been a controversy, largely between the Dominicans and some of the Franciscans, over 'evangelical poverty'. Pope John had taken the side of the Dominicans and condemned their opponents in 1323.

[2] *i.e.*, Franciscan.

the throne and diadema of the supreme pontificate, conferred on him by Ludwig and the Romans in the exercise of their sovereignty. A few days later he appointed his colleagues and so established a college of cardinals. . . .

70. DECLARATIONS OF IMPERIAL INDEPENDENCE, JULY AND AUGUST, 1338

Complicated negotiations were carried on during 1336 *and* 1337 *between Pope Benedict XII and Philip VI of France on the one hand and Ludwig IV and Edward III of England on the other. It was Philip's object to prevent an alliance between the German and English rulers, the Pope's to secure the submission of Ludwig to the authority of Avignon. In June,* 1338, *Ludwig's envoys and a number of German bishops visited the Pope in hopes of a settlement, but Benedict received them ill and remained attached to France. Thereupon the German Electors, with the exception of John, King of Bohemia, met near Rense in July and drew up the declaration* (*a*) *given below. In the following month Ludwig and the Diet of the Empire met at Frankfurt, where Ludwig promulgated a declaration,* (*b*), *known as* Licet juris, *giving effect to the Electors' decision and claiming direct divine origin for the imperial office.*

(*a*)

SOURCE—Text in Krammer, Vol. II, p. 91. Mirbt, p. 223 (No. 383). A. and B., p. 52 (No. 34).

IN the name of the Lord, Amen. Be it known to all by this present public declaration that in the year of the Incarnation 1338, July 16, . . . , in the fourth year of the pontificate of the lord Pope Benedict XII, the Electors met in the orchard beside the town of Rense, above the Rhine, where the princes electors of the holy Roman Empire are usually accustomed to meet to discuss elections and other business of the holy Empire. There were present the reverend lords and fathers in Christ, the lords Archbishops, Henry of Mainz, Walram of Köln and Baldwin of Trier; and the illustrious princes, the lords Rudolf, Rupert, Rupert and Stephen, representing the count palatine of the Rhine, since it was not decided which of them ought to be considered the count and have the Palatinate vote; also Rudolf, Duke of Saxony, and Ludwig, Margrave of Branden-

burg. . . . After discussion with many vassals of the said Empire, both ecclesiastical and temporal, . . . they gave their judgement and definition that it is in accordance with the law and ancient, approved custom of the Empire, that when anyone has been elected King of the Romans by the princes electors of the Empire, or by the majority of them in the case of dispute, he does not need the nomination, approbation, confirmation, assent or authority of the Apostolic See in order to assume the administration of the rights and property of the Empire or the royal title. For these purposes the person elected has no need for recourse to the said See ; for this has been the practice and custom from beyond the memory of man, that those elected by the princes electors of the Empire, unanimously or by majority, have assumed the royal title, and administered the property and rights of the Empire, and they could and can do this lawfully and according to custom, without obtaining any approbation or permission from the said Apostolic See. . . .

(*b*)

SOURCE—Text in A. and B., p. 54 (No. 36). Mirbt, p. 223 (No. 384). Translation in Henderson.

Ludwig, by the grace of God Emperor of the Romans and ever august. For an eternal record of the matter. Although the testimonies of both laws [1] clearly show that the imperial dignity and power proceeded in the beginning immediately from God alone, and that God has given laws to the human race through the Emperor and the kings of the world, and that the Emperor is made very Emperor solely by the election of those entitled to elect him and does not need the confirmation or approbation of any other person, since in temporal matters he has no superior on earth, but all nations are subject to him, and the Lord Jesus Christ Himself commanded that what was God's should be rendered to God and what was Cæsar's to Cæsar ; nevertheless certain persons, overcome by the blindness of avarice and ambition and claiming to have understanding of the Scriptures, but rather altering their plain sense, give

[1] *i.e.*, Canon and Civil.

vent to unjust and iniquitous doctrines and detestable assertions, falsely and foolishly maintaining, against the power and authority of the Emperor and the rights of the imperial Electors and of the other princes and vassals of the Empire, that the imperial dignity and power are derived from the Pope and that he who is elected Emperor is not very Emperor in virtue of the election, nor king, until he is confirmed, approved and crowned by the Pope or the apostolic see. By such false assertions and pestiferous theories the ancient enemy may stir up disputes and strife, contentions and seditions.

Therefore, to avoid such great evil, with the counsel and assent of the Electors and other princes of the Empire, We declare that the imperial dignity and power are derived immediately from God alone; and that, by the law and ancient approved custom of the Empire, when anyone is elected Emperor or king by the imperial Electors, unanimously or by majority, at once by the mere fact of election he is to be considered and entitled very King and Emperor of the Romans; and that all subjects of the Empire owe him obedience; and that he has full power to administer the possessions and rights of Empire and to do whatever is the right of a very Emperor; nor does he need the approbation, confirmation, authority or consent of the Pope or the Apostolic See or of any other person. . . .[1]

This law was ordained and promulgated in our town of Frankfurt, on August 8, A.D. 1338, in the 23rd year of our royal and the 11th year of our imperial reign.

71. THE ALLIANCE OF ZÜRICH AND THE FOREST CANTONS, MAY 1, 1351

The treaty of alliance between the free imperial city of Zürich, the forest cantons and their ally, Luzern, which was also in part subject to the house of Habsburg, is of great interest as showing the development

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[1] The law proceeds to declare that offenders against its provisions will be guilty of *lèse-majesté* and liable to the loss of all their fiefs and privileges held of the Empire.

of federal bonds between the allies. The signatories provided for common deliberation and for arbitration. The occasion of the alliance was the suppression of a conspiracy, which had been planned in Zürich against the rule of Rudolf Brun, the powerful demagogue. It will be observed that Brun secured a guarantee of the existing constitution of Zürich from his allies.

The original of this document is not extant. The text is that of a copy, which was made for the town of Zürich in 1428 *and is now in the town archives.*

SOURCE—Text in Old German in E.A., p. 260. Modern German translation in Oechsli, W., *Quellenbuch zur Schweizergeschichte*, Zürich, 1886.

IN God's name Amen. 1. We, the burgermeister, councillors and burgesses of the town of Zürich; the mayor, councillors and burgesses of the town of Luzern; the bailiffs and people of the cantons of Uri, Schwyz and Unterwalden, declare to all, who see this letter or hear it read, that we . . . have together approved and sworn . . . oaths by the saints, for us and our successors, who shall be expressly bound thereto for ever, to have and to hold with each other an everlasting alliance, which now and henceforth shall abide in good faith, constant and firm, unchangeable, unbreakable and in all things inviolable for ever.

[Then follow mutual promises to help each other against attacks within an area bounded by the Aar, the Rhine, the Thur, the valley of Chur and the high Alps.]

7. But where the matter is so important as to necessitate a campaign or a siege, and if on that account any of our towns or cantons is summoned by envoys or letters to help another member of this alliance, then will we come without delay to take council at God's house of the Abbey of Einsiedeln,[1] there to deliberate what action seems necessary for the help of him or them, who have summoned assistance, in all loyalty.

10. And if we, the said Zürichers, come into strife or disagreement with our said allies of Luzern, Uri, Schwyz and Unterwalden, or with one of them, which God forbid, we will come to deliberate at the said house of God at Einsiedeln. And the town of Luzern and the cantons,

[1] In Schwyz, near the lake of Zürich.

which together or individually are at strife with us of Zürich, shall appoint two honourable men, and we also two. And these four shall then swear by the saints to settle the matter and the strife without delay by the dictates of goodwill or of law ; and what the four or the majority of them then decide, that will we on both sides accept as binding, in all loyalty.

11. But if the four thus nominated are equally divided, then shall they under the oath, which they have taken, choose and take to themselves from within our alliance an impartial man, who seems to them a fit and unbiassed arbiter in the matter. And whoever is thus chosen shall be required and instructed by those of his town or canton to apply himself to the matter with the four and to bind himself by oath to settle it, in all loyalty.

19. . . . If we together, or any one of our towns or cantons, wish to make further settlements or alliances with any lords or towns, we may freely do so ; provided that we shall mutually keep firm and fast this alliance before all alliances which we shall make in future. . . .

20. It is also expressly provided that if any shall injure or invade the lord Rudolf Brun, knight, now burgermeister of Zürich, or whoever shall there be burgermeister, the councillors, associations and burgesses of the said town, in their rights, guilds and laws, which they have made and which are included in this alliance ; and if appeal is therefore made to us, the said men of Luzern, Uri, Schwyz and Unterwalden, by a burgermeister or councillor of Zürich, in a letter sealed with a burgermeister's or councillor's seal ; then shall we on our oath without delay help them and provide that the burgermeister, councillors and associations remain in enjoyment of their power, jurisdictions and laws, as they have provided in this alliance, in all loyalty.

21. We, the said Zürichers, have excepted and reserved to our lord, the King, and to the holy Roman Empire, the obligations which we are accustomed by ancient and good usage to discharge to them, with all loyalty.

24. And we, the said Luzerners, have excepted and

reserved to our nobly-born lords, the Dukes of Austria, the obligations and duties which we are accustomed lawfully to discharge to them and their jurisdiction in our town, . . .

25. We, the said men of Uri, Schwyz and Unterwalden, have also excepted and reserved to our illustrious lord, the King, and to the holy Roman Empire the obligations, which we are accustomed by ancient and good usage to discharge to him. . . .

72. THE GOLDEN BULL OF THE EMPEROR CHARLES IV, 1356

Charles IV laid his project for a constitutional law of the Empire before a Diet held at Nürnberg from November, 1355, to January, 1356. Its chief points were (1), the definition of the right to vote in imperial elections; (2), the principle of decision by majority vote in these elections; (3), the regulation of coinage; (4), the diminution of tolls; (5), the establishment of a public peace. The clauses concerning the Electors were settled between the Emperor and them. To several other clauses he encountered resistance, especially from the towns. The first 23 clauses were promulgated on January 10.

Charles resumed the discussion in an assembly of princes at Metz in November, 1356. He did not reach any very valuable decisions on points 3, 4 and 5.

SOURCE—Text in A. and B., p. 56 (No. 38). Translation in Henderson.

Part I, promulgated at Nürnberg, January 10, 1356

[CLAUSE 1 provides that the Archbishop of Mainz shall summon the Electors to Frankfurt for the election of the King-Emperor and that the Electors shall be protected on the journey and in Frankfurt.]

2. Of the election of the King of the Romans.

After the oft-mentioned Electors or their envoys have entered the city of Frankfurt, on the following day at dawn in the church of St. Bartholomew the Apostle and in the presence of them all, they shall cause the mass of the Holy Spirit to be sung in full, that the Holy Spirit may illumine their hearts and may infuse the light of His virtue into their understandings, so that, sustained by His help, they may elect a just, good and suitable man as

King of the Romans and future Caesar, for the welfare of the Christian people. . . . [The Electors are then to take an oath to elect honestly.] When this oath has been taken by the Electors or their envoys in the aforesaid form and manner, they shall proceed to the election and shall not leave the said city of Frankfurt until the majority of them has elected a temporal head for the world and the Christian people, a King of the Romans and prospective Emperor. If they postpone doing so for thirty days, reckoned from the oath-taking, from that time they shall feed on bread and water and not leave the said city until a ruler or temporal head of the faithful has been elected by them or a majority of them.

4. Of the Princes Electors in common.

. . . the Archbishop of Mainz, and no other, must demand the votes of his co-electors in turn in the following order. First he shall ask the Archbishop of Trier, to whom we declare that the first vote belongs, as we find that it has hitherto belonged. Secondly the Archbishop of Köln, to whom belongs the dignity and office of first placing the royal crown on the King of the Romans. Thirdly the King of Bohemia, who by reason of his royal dignity lawfully and rightly holds the primacy among the lay Electors. Fourthly the Count Palatine of the Rhine. Fifthly the Duke of Saxony. Sixthly the Margrave of Brandenburg. . . . Then contrariwise his said fellow-princes shall require him to express his intention and to declare his vote to them.

[Clause 5 provides that during a vacancy in the Empire, the Count Palatine and the Duke of Saxony shall act as regents.]

8. Of the immunity of the King of Bohemia and his subjects.

. . . We ordain that if any of the aforesaid—namely any prince, baron, noble, knight, esquire, citizen, burgess, or rustic, or any other said person—be cited before any tribunal outside the said kingdom of Bohemia, on whatever plea, criminal, civil or mixed, or on whatever business,

at whatever time, he shall by no means be obliged to appear when summoned or to answer before the court. . . .

9. Of mines of gold, silver and other specie.

. . . We declare that our successors, the Kings of Bohemia, may justly hold and lawfully possess, with all customary rights whatsoever, all mines of gold, silver, tin, copper, iron, lead and any other sort of metal, as also of salt, that have been found or shall be found at any time in the said kingdom and in its subject lands.[1] Likewise all and singular the Princes Electors, ecclesiastical and secular, for ever, may possess the same rights in their principalities, lands, lordships and belongings. And they may have the Jews [2] and levy the tolls established and imposed in the past. . . .

10. Of money.

We declare that our successor, the King of Bohemia for the time being (as has been the custom), shall have the right to strike coins of gold and silver in every place and part of his kingdom and its subject lands, wherever the king shall decree and desire, and to tender it in all ways and manners hitherto customary in his kingdom of Bohemia. . . . And we will that this ordinance and privilege be fully extended, in virtue of this our imperial statute, to all the Princes Electors, ecclesiastical and secular, and to their successors and legitimate heirs.

11. Of the immunity of the Princes Electors.

And we decree that no counts, barons, nobles, feudal vassals, knights castellans, esquires, citizens, burgesses or other persons, male or female, subject to the churches of Köln, Mainz and Trier, of whatever status, rank or condition, could in times past or ought or can ever in future be brought or summoned, at the instance of any litigant, outside the territory and limits of those sees and their dependencies, before any tribunal or court of any person other than the archbishops of Mainz, Trier and Köln and their judges . . . provided that justice has not been

[1] *e.g.*, in 1356, Moravia, Silesia, Görlitz, Schweidnitz.
[2] *i.e.*, taxes on Jews.

denied to plaintiffs in the courts of the archbishops and their subordinates. . . . In the case of defect of justice all the aforesaid persons may appeal, but only to the imperial court and tribunal or to the hearing of a judge presiding *pro tempore* in the imperial court. . . . We will that the same provision, in virtue of this our imperial statute, be fully extended to the illustrious secular or lay Princes Electors, the Count Palatine of the Rhine, the Duke of Saxony, and the Margrave of Brandenburg, to their successors and subjects. . . .

[12 provides for annual meetings of the Emperor and Electors; 15 condemns unauthorized leagues of persons or towns. Persons, offending in this respect, incurred a fine of ten pounds of gold; and towns a hundred pounds and loss of imperial privileges.]

16. Of *pfahlbürger*.

And as we have received complaints that some citizens and subjects of princes, barons and other men, seeking contemptuously to cast off the yoke of their original subjection, have often procured and do procure their reception as citizens of other cities; and yet continue to reside in lands, cities, towns and villages of their former lords, whom they thus fraudulently presume to desert, though they enjoy the liberties of and are defended by the cities to which they thus transfer themselves, being what is commonly called in Germany *pfahlbürger*: therefore . . . we decree that henceforth in all lands, places and provinces of the Holy Empire, the said citizens and subjects thus eluding their lords shall in no way enjoy the rights and liberties of the cities of which they fraudulently have secured or shall secure citizenship; unless they actually transfer themselves to such cities, and there make their home, and reside continuously, truly and not fictitiously, and undertake the burdens and duties of municipal life.

17. Of challenges.

. . . We provide . . . that it is unlawful, under pretext of some kind of challenge, to attack anyone with arson,

spoliation and robbery, unless the challenge be publicly offered to the challenged party personally three natural days beforehand and in the place where he usually resides, so that reliable evidence of such challenge may be had by suitable witnesses. . . .

Part II, promulgated at Metz, December 25, 1356

24. If anyone shall take part in a criminal conspiracy or take a conspirators' oath, together with princes, knights, private persons or even plebeians, to kill our and the Holy Roman Empire's venerable and illustrious Princes Electors or any of them—for they are a part of our body—and the laws provide that criminal intention shall be punished with the same severity as the act itself—he shall be slain with the sword as for high treason and all his goods shall be forfeit to our treasury. . . .

25. If it is right that other principalities be kept in their entirety, for the enforcement of justice and the peace and quiet of faithful subjects, much more ought the magnificent principalities, domains, honours and rights of the Princes Electors to be preserved unimpaired (for the greater the peril, the greater should be the remedy), lest if the columns fall, the whole building may collapse. We decree therefore that . . . henceforth those glorious and magnificent principalities, the kingdom of Bohemia, the county palatine of the Rhine, the duchy of Saxony and the margraviate of Brandenburg, their lands, districts, fiefs, vassalages and other appurtenances ought not to be separated, divided or on any account dismembered, but rather remain for ever in perfect integrity. The eldest son shall succeed in them and to him alone shall jurisdiction and dominion belong; unless he happens to be of unsound mind or lunatic or suffers from some other known and obvious defect, because of which he ought not or cannot rule over men. In which case . . . we will that the second born succeed, if there be such in that family, or another elder brother or lay relative, the nearest in direct line of descent on the father's side. . . .

29. We find . . . that from time immemorial it has been the regular observance . . . that the election of the King of the Romans and prospective Emperor should be held in the city of Frankfurt, his first coronation in Aachen, and his first royal court in the town of Nürnberg. Wherefore we declare that these observances shall be maintained in the future. . . .

31. Since the majesty of the Holy Roman Empire has to control the laws and government of diverse nations differing in customs, life and speech, it is right and in the judgement of wise men expedient that the Princes Electors, the columns and supports of that Empire, should be taught the varieties of the different tongues and languages ; so that they who assist the Imperial Highness may understand and be understood by the more persons. Wherefore we decree that the sons, heirs and successors of the illustrious Princes Electors, the King of Bohemia, the Count Palatine of the Rhine, the Duke of Saxony and the Margrave of Brandenburg—who may be presumed naturally to know the Teutonic tongue and to have learned it from infancy—shall from their seventh year be instructed in the Italian and Slav languages, so that by their fourteenth year they shall, by God's grace, be learned in those tongues.

73. THE CONFEDERATION OF TOWNS AT KÖLN, NOVEMBER 19, 1367

The injuries inflicted on German shipping by Waldemar V of Denmark and his son-in-law, Hakon of Norway, despite the former's treaty with the Hanseatic League at Wordingborg in 1365, aroused the anger even of the more distant Hansa towns. A general meeting at Köln resulted in the confederation, some of the terms of which are given below.

SOURCE—Text, in Old German, in *Hansarecesse*, Vol. I, p. 373.

IN God's name, amen. We [here follow the names of the representatives of Lübeck, Rostock, Stralsund, Wismar, Kulm, Thorn, Elbing, Kampen,[1] Harderwyk,[1] Elborg,[1] Amsterdam [1] and Briel [1]] . . , on account of the many

[1] All these towns are in the Netherlands.

injustices and wrongs which the kings of Denmark and Norway do and have done to the common merchant, we will be their enemies and will help each other as follows: the towns of the Wendish side, with the Livonian ones, shall prepare ten *koggen*,[1] manned with well-armed forces, namely 100 armed men in each *kogge*, and with each *kogge* one barge and one *snikke* [2]; the maritime towns of Prussia similarly shall provide five *koggen*; [and so on, the whole force including 41 ships and 1,950 armed men]. . . . If any town of the Wendish side, of Prussia, of Livonia, or of the German Hansa in general, of the Zuider Zee, of Holland or of Zeeland, will not act thus, . . . their burgesses and merchants shall have no fellowship with all the towns which are in this confederation, so that men shall neither buy from them nor sell to them, and they shall not sail into or out of any harbour, nor lade nor unlade their ships, for ten years. . . . To meet these expenses, each merchant shall give poundage of his goods, on each pound one grote,[3] on 6 marks of Lübeck 4 pence of Lübeck, on 4 Prussian marks 8 Prussian pence [and so on].

74. THE PEACE OF STRALSUND, 1369–70

The forces of the Hanseatic League were completely successful in 1368 *against the kings of Denmark and Norway and peace was made in* 1370 *on terms very advantageous to the League.* (*a*) *is an extract from the Danish council's version of the peace terms, dated November* 30, 1369; *and* (*b*) *is a similar extract dated May* 24, 1370.

SOURCE—Text, in Old German, in *Hansarecesse*, Vol. I, pp. 475, 486.

(*a*) ALL burgesses, merchants and their servants and those who share their law . . . can visit the kingdom of Denmark and the land of Skaania in all districts and regions, and journey by land and water, and travel in all regions with their goods and merchandise. . . . Further the aforesaid towns can appoint their own wardens over

[1] Large men-of-war, rounded fore and aft, with one or two masts.
[2] Light vessels, for communication and scouting.
[3] This refers to the Flemish currency, in use west of the Weser.

their settlements . . . and the wardens may have jurisdiction over all those who live with them in their settlements and over all their burgesses and their servants, wherever they live. . . .

(*b*) . . . because of the many wrongs, which they [the Hansa towns] and their burgesses have undergone in the years before this war, they shall have two thirds and our lord, the King, and the kingdom of Denmark shall have one third of all the revenues which are payable in Skanör, Falsterbo, Malmö and Helsingborg, for fifteen years. . . . And that they may have and collect these revenues in peace for fifteen years, they shall have the control, for fifteen years, of Skanör, [etc.]. . . . And if our lord, King Waldemar, in his lifetime wishes to set up another lord over his kingdom of Denmark, we shall not and will not recognize him, but it shall rest with the council of the towns, whether, when he has sealed their liberties to the towns with his great seal . . . they will accept him. Similarly will we act, if our said lord the King die, which God forbid.

VII

FRANCE IN THE FOURTEENTH AND FIFTEENTH CENTURIES

75. A SUMMONS TO THE STATES GENERAL, FEBRUARY 15, 1302

Boniface VIII's bull Ausculta fili, *of December* 5, 1301, *announced the approaching convocation of a general council to judge Philip IV for his offences against the Church. The king replied by assembling representatives of the French clergy, nobility and towns at Paris on April* 10, 1302, *when the royal chancellor appealed to the assembly to assist the king in defending the independence of France and securing the reform of ecclesiastical abuses. The prelates and nobles were summoned individually. The towns received their summons through the seneschals and royal governors. Towns had been occasionally summoned to royal assemblies in the thirteenth century, to assist in the assessment and collection of taxes. Now they were frequently summoned to hear the royal will on matters of policy and to carry it out.*

SOURCE—Text in Picot, p. 1 (No. 1).

PHILIP, by the grace of God King of the French, to the seneschal of Beaucaire, or his lieutenant, greeting. We wish to deliberate with the prelates, barons and other our loyal subjects on many serious matters closely touching ourselves, our estate and liberty, and that of our kingdom, as well as of the churches, ecclesiastics, nobles and secular persons, and all the inhabitants of the said kingdom. We bid you on our behalf to order and command the consuls and communities of the cities of Nîmes, Uzès, le Puy, Mende and Viviers, and the towns of Montpelier and Beaucaire . . . to be present at Paris on the coming Sunday before Palm Sunday, in the persons of two or three of the more prominent and learned of their several

communities. These last are to have full and express powers from the said consuls and communities, without making any excuse about the need for reporting back [to their principals], to hear, receive, do and consent to everything that shall be ordained by us in this matter. . . .

Given at Paris, Thursday after the octave of Candlemas, 1301.[1]

76. THE PASSING OF THE FRENCH CROWN TO THE VALOIS, 1328

Jean le Bel was a canon of Liège. He was born towards the end of the thirteenth century and died about 1370. *Well in touch with affairs, especially those of Edward III of England, he was able to write a chronicle of events between* 1327 *and* 1360 *which is of the first importance for the history of the Hundred Years' War. He is more trustworthy than Froissart, who often copies his narrative; and not less picturesque. The one manuscript of his chronicle is in the library of Châlons-sur-Marne.*

SOURCE—le Bel, Vol. I, c. 1, p. 7. Old French.

BESIDES this daughter,[2] who was married to the King of England and of whom I have spoken above, King Philip the Fair [3] had three sons. And these three sons were very handsome. Of them, the eldest was called Louis,[4] who in his father's lifetime became king of Navarre and was called the quarrelsome king; the second was called Philip the Fair [5]; the third Charles.[6] And, after the death of their father, they were all three kings of France in lawful succession, one after the other, without begetting any heirs male of their bodies.[7]

Accordingly, after the death of King Charles, the twelve peers and the barons of France did not give the kingdom to the sister, who was queen of England, because they wished to say and maintain (as they still do) that the

[1] Old Style. 1302, New Style.
[2] Isabella of France, wife of Edward II of England.
[3] Philip IV.
[4] Louis X (1314–1316) succeeded his mother, Jeanne of Navarre, as King of Navarre, 1305.
[5] Philip V (1316–1322). [6] Charles IV (1322–1328).
[7] Not strictly true. Louis X had a son, John, who died in 1316.

kingdom of France is so noble that it ought on no account to go to a woman; nor, consequently, to her eldest son, the king of England; for, as they declared, the son of a woman can have no right of succession through his mother, where his mother herself has none.[1] For these reasons the twelve peers and the barons of France by common consent gave the kingdom of France to my lord Philip, son of my lord Charles of Valois, the brother of the aforesaid King Philip the Fair. Thus they set aside the queen of England and her son, who was heir male and son of the sister of the late king, Charles. Thus the kingdom passed away from the true line, as it seemed to many people; and hence great wars arose and great destruction of people and lands in the kingdom of France, as you may hear hereafter. . . .

77. AN ACCOUNT OF THE BLACK DEATH, 1348

Guillaume de Nangis, a monk of St. Denys, who died about 1300, *wrote a Latin chronicle of world history, which is an important authority for the latter part of the thirteenth century. His chronicle was carried on by continuators. The writer of the chronicle quoted below, Jean de Venette, is supposed to have been one of these continuators, though his chronicle, which covers the period* 1340–1368, *may have been an independent work. He was a Carmelite friar of Paris. Despite his rough, unpolished style, he is an excellent authority because of his care to record only what he had witnessed or obtained from witnesses. He is also more than a mere chronicler of events. He writes with passion and deep human sympathy of the sufferings of the poorer classes of France at the hands of his two* bêtes noires, *the nobles and the English troops, who ravaged the country. Nevertheless he condemned the outrages of the Jacquerie and would not countenance the use of violence as a remedy for human ills.*

SOURCE—Nangis, Vol. II, pp. 211 *et seq.*

AT Paris and in the kingdom of France, as in the other parts of the world, so it is said, there was in this same year (1348) and the year following so great a mortality of people of both sexes, of the young rather than of the old,

[1] Louis X's daughter, Jeanne of Navarre, who had a son, Charles II of Navarre, and Philip V's two daughters had already been set aside.

that it was scarcely possible to bury them. They were only ill for two or three days and died suddenly, their bodies almost sound; and he, who one day was in good health, was dead and buried on the morrow. They had swellings under the arm-pits and in the groin, and the appearance of these swellings was an infallible sign of death. This malady or pest was called an epidemic by the doctors. During these two years there was such a number of victims as had never been heard of, or seen, or read of in past times. . . . And in many towns, great and small, the priests were terrified and fled; but some religious,[1] who were braver, administered the sacraments. Soon in many places out of every twenty inhabitants there were only two alive. The mortality was so great at the Hôtel-Dieu in Paris that for a long time more than five hundred dead were carried daily on wagons to be buried at the cemetery of St. Innocent of Paris. And the holy sisters of the Hôtel-Dieu, having no fear of death, discharged their task to the end with the most perfect gentleness and humility. These sisters were wiped out by death and were replaced more than once; and they now, as is piously believed, repose in peace with Christ.

This plague, it is said, began amongst the infidels, and then came to Italy. Crossing the mountains, it reached Avignon, where it struck down several cardinals and decimated their suites. Then by degrees it passed across Spain and Gascony, from town to town, from village to village, finally from house to house and from person to person till it arrived in France, and spread on to Germany, though it was less terrible there than it was amongst us. . . .

78. THE TREATY OF BRETIGNY, OCTOBER 24, 1360

Early in May, 1360, the Black Prince and the Dauphin Charles agreed on terms of peace at Bretigny, a village near Chartres. King John was later brought across the Channel to Calais; and there on

[1] *i.e.*, friars or monks.

October 24 a revised version of the peace terms was accepted by both kings. The next day King John was set at liberty.

The extracts below are taken from the Calais version, the true peace treaty. It omits Edward III's renunciation of the French crown and of sovereignty over Normandy, Touraine, Maine, Anjou, Brittany and Flanders (clause 12 of the Bretigny version). But these renunciations were made in a separate instrument. It was also agreed that all formalities concerning the surrender of territory should be completed by November 30, 1361. The English failure to comply with this last provision was alleged by Charles V as a pretext for renewing the war in 1369, when the English king rapidly lost nearly all the territory attributed to him by the treaty.

SOURCE—Text in Cosneau, pp. 39–68. Old French.

1. THE King of England, in addition to what he holds in Guienne and Gascony, shall have, for himself and his heirs, for ever, all the possessions mentioned below, to hold after the same manner that the King of France and his son or any of his ancestors, Kings of France, held them. . . .[1] And if there are any lords, as the Count of Foix, the Count of Armagnac, the Count of Lisle, the Count of Périgord, the Viscount of Limoges, or others, who hold any lands or places within the limits of the said districts, they shall do homage to the King of England and all other services and duties due for their lands and places in the manner that they have done in time past.[2]

[3, 4 and 5 attribute to the King of England Ponthieu, Calais and Guines.]

7. The King and his eldest son will, by their letters patent, command all archbishops, bishops and other prelates of holy Church, and the counts, viscounts, barons, nobles, citizens, and others of the cities, counties, lands, districts, islands and places beforementioned, to obey

[1] There follows a list of the possessions in question, of which the most important are Poitou, Saintonge, Agenois, Périgord, Limousin, Quercy, Bigorre, Angoumois, Rouergue, *i.e.*, almost the whole basin of the Gironde.

[2] It was chiefly over the interpretation of this clause that renewed differences arose in 1368, when the Gascon nobles appealed to Charles V of France, as to *their sovereign lord*.

the King of England and his heirs and their clear orders, as they have obeyed the kings and crown of France; and by the same letters they will acquit and absolve each of them, as far as possible, from homages, fealties, oaths, obligations, subjections and promises made by him to the kings and crown of France in any manner.

12. That the present treaty may be carried out as soon as possible it is agreed that the King of England will bring the King of France to Calais within three weeks after next St. John Baptist's day. . . .[1]

13. It is agreed that the King of France shall pay to the King of England three million gold crowns, two of which are worth one noble of English money. . . .[2]

19. It is agreed that, as soon as possible during the year following the King of France's departure from Calais, my lord John, Count of Montfort, shall have the county of Montfort with all its appurtenances, on doing liege homage to the King of France. . . .

[20 provides for joint arbitration by the two kings in the dispute between the houses of Blois and Montfort over Brittany.]

30. It is agreed that good alliances, friendships and confederations be made between the two Kings of France and England and their kingdoms, saving the honour and conscience of each King; despite any confederations which they have, on this side or on that, with any persons, whether of Scotland, of Flanders, or of any other country.

31. The kings are bound to have all the aforesaid matters confirmed by our holy father the Pope. . . .

Given at Calais, the 24th day of October, the year of grace 1360.

[1] This clause is copied unchanged from the treaty of May 8. although by October 24 King John was already at Calais.

[2] This enormous ransom was to be paid in annual instalments of 400,000 crowns.

79. THE TREATY OF TROYES, MAY 21, 1420

On the murder of John the Fearless, Duke of Burgundy (September 10, 1419), his son, Philip the Good, entered into close alliance with Henry V of England, whom he recognized as heir to the French crown. The Dauphin, Charles, suspected of having promoted the murder, was to be passed over. Queen Isabella of France and Duke Philip received full powers from the mad King Charles VI to negotiate the marriage of the king's daughter, Katherine, to Henry, and to conclude a peace. The marriage was arranged on May 20, 1420, and celebrated on June 2. The peace was signed on May 21, and accepted by a French assembly at Paris on May 30.

SOURCE—Text in Cosneau, pp. 102–115. Old French.

1. SINCE by the marriage agreement between our son, the king Henry, and our most dear and beloved daughter, Katherine, he has become our son and the son of our most dear and beloved consort, the Queen, he, our son, will hold and honour us and our said consort as his father and mother. . . .

2. Our son, the king Henry, will not disturb nor disquiet us nor prevent us, while we live, from holding and possessing the crown and royal dignity of France, as we now hold and possess them, and the revenues, fruits and profits thereof. . . .

6. It is agreed that immediately after our death and thenceforward the crown and kingdom of France, with all their rights and appurtenances, shall be and remain permanently the possession of our son, the king Henry, and of his heirs.

7. Since we are usually prevented from being able in our own person to attend to the business of our realm, the power and authority to govern and control the public affairs of the realm shall be and remain, during our life, vested in our son, the king Henry, with the counsel of the nobles and wise men of our obedience. . . .

9. Our son will do all in his power to defend and sustain all and sundry the peers, nobles, cities, towns, communities and individuals, now or in time to come subject to us, in their rights, customs, privileges, preeminences, liberties and franchises.

23 Our son will not impose any taxes or exactions on our subjects, without reasonable and necessary cause, nor otherwise than for the public good of the kingdom of France, and [then only] according to the ordinances and the reasonable and approved laws and customs of the said kingdom.

24. . . . and that the two kingdoms [England and France] shall be governed . . . under one person who shall be, for the time, king and sovereign lord of both kingdoms; saving always to each kingdom its rights, liberties and customs, usages and laws, not subjecting in any way one kingdom to the other. . . .

29. In view of the horrible and enormous crimes and misdeeds perpetrated against the kingdom of France by Charles, self-styled Dauphin of Vienne, it is agreed that neither we, nor our son, the King Henry, nor our dear son, Philip, Duke of Burgundy, will treat of peace or concord with the said Charles, except by counsel and assent of each and all of us three and of the three estates of the two kingdoms.

Given at Troyes, the 21st day of the month of May, the year 1420 and of our reign the fortieth.

80. THE TREATY OF ARRAS, SEPTEMBER 21, 1435

This treaty destroyed the corner-stone of English policy in France, the Anglo-Burgundian alliance. The diplomacy of Popes Martin V and Eugenius IV had prepared the way for a Franco-Burgundian entente, when it was arranged to hold an Anglo-Franco-Burgundian conference at Arras in 1435. Philip of Burgundy found the English demands excessive, and the death of the Regent, Bedford, decided him to conclude a separate peace with Charles VII of France. As will be seen below, Philip drove a hard bargain, which Charles accepted since it left him free to face the now unaided English.

SOURCE—Text in Cosneau, pp. 119–51. Old French.

1. THE King will declare . . . to my lord of Burgundy that the death of my lord the duke John of Burgundy, his father, whom God absolve, was an evil and iniquitous

deed of those who perpetrated it; that he has disapproved of it and now disapproves of it with all his heart; that, had he known of it and been of his present age and understanding, he would have done all in his power to prevent it. . . . And he will pray my lord of Burgundy to put from his heart all bitterness and hatred that he may have towards the king on that account, and that there may be good peace and love between them.

2. The king will abandon all those who perpetrated the evil deed or who consented to it; and will do his utmost to apprehend them wherever they may be found, that they may be punished in their persons and goods; and, if they cannot be apprehended, he will banish them for ever from the kingdom and from Ḍauphiné, with confiscation of all their goods.[1]

10. In recompense for the jewels and other goods, which my lord the duke John had at the time of his death and which were taken and lost, and to buy others in their place, the king will pay and deliver to my lord of Burgundy the sum of fifty thousand old crowns of gold.

11. There shall be surrendered and delivered by the king to my lord of Burgundy, for him and the heirs of his body in the direct line, whether male or female, the lands and lordships which follow; the city and county of Mâcon, together with all the towns, villages, lands, rents, taxes and revenues whatsoever, which belong or appertain in domain to the king and crown of France in and throughout the royal villages of Mâcon and St. Gengon. . . .[2] and they shall be held in fealty and homage of the king and crown of France, and in peerage . . . with such liberties, rights and prerogatives as have the other peers of France.

14. There shall be delivered by the king to my lord of Burgundy, for him and his heirs, [as above] . . . the city

[1] There follow several clauses providing for religious establishments and masses for the welfare of the souls of duke John and others killed in the civil wars, all to be paid for by the king.

[2] St. Gengoux-le-National, near Mâcon.

and county of Auxerre, with all its appurtenances whatsoever, in justice, domain, fiefs, sub-fiefs, patronages of churches, collations to benefices and in other respects, to be held of the king and crown of France, in fealty and homage and in peerage of France. . . .

20. There shall be delivered by the king to my lord of Burgundy, for him and his legitimate heirs male . . . the castles, towns, etc. of Péronne, Montdidier and Roye, with all their appurtenances . . . to be held of the king and crown of France. . . .

24. The king shall deliver to my lord of Burgundy, for him, his heirs and assigns, for ever, all the cities, fortresses, lands and lordships of the crown of France of and on the river Somme, on both banks, as St. Quentin, Corbie, Amiens, Abbeville and others; together with the whole county of Ponthieu on both sides of the Somme, Doullens, St. Riquier, Crêvecœur, Arleux, Mortagne. . . . And this delivery shall be made, as said, by the king, subject to redemption for a sum of four hundred thousand old crowns of gold. . . .[1]

28. My lord of Burgundy shall not be held to do fealty or homage or service to the king for the lands and lordships that he now holds in the kingdom of France, nor for those which he shall have by this present treaty, nor for those that may come to him by succession, in the kingdom. . . . but after the king's decease, my lord of Burgundy shall do to his son and successor in the crown of France the homages, fealties and services appertaining to him; and if my lord of Burgundy passes away before the king, then his heirs and assigns shall do to the king the homages, fealties and services as they appertain to him.

* * * * *

Given at Arras, the 21st day of September, the year of grace 1435.

[1] This refers to gold coins struck in October, 1415. Since then the currency had been debased. The Burgundian negotiators were ensuring against payment in the depreciated currency.

81. THE TREATY OF CONFLANS, 1465

Louis XI bought peace by surrendering to the confederate princes what each wanted. On October 5 he made the treaty of Conflans, quoted below as (a), with Charles of Charolais. This and the treaties with the other princes he ratified with letters patent, dated October 27. Two days later the princes of the League of the Public Weal set their seals to a similar ratification at St. Maur. That document is quoted below as (b). It is not difficult to perceive which articles in (b) were demanded by the king and which by his opponents. The feudalists' claim that the king was not an absolute sovereign is clearly marked.

The Parlement of Paris registered the ratification on November 15, but added a protest to the following effect—'That the said treaty of Conflans, made in the year 1465 with the malcontent princes, was made against his [the king's] will, and by force and constraint, and cannot turn to his prejudice. And that the said king Louis could not give the duchy of Normandy in appanage to his brother, Charles, since it had been united to the crown by the kings, his predecessors.' [1]

(*a*)

SOURCE—Text in Lenglet, Vol. II, pp. 500–505. Old French.

LOUIS, by the grace of God, King of France, to all who shall see these present letters, greeting. . . . By the advice and counsel of our said brother of Normandy, of our dear and beloved cousins, the dukes of Brittany, Calabria, Bourbon and Nemours, the counts of Maine, Perche, Eu and Armagnac, the members of our great council and of our parlement, and other notable men of our realm, we have delivered and conveyed, and do deliver and convey by these presents, to our said brother and cousin, the count of Charolais . . . for himself and his heirs male or female descended from him in direct line and the heirs descended from those heirs in direct line, for ever, the towns, cities, lands, fortresses and lordships appertaining to us of and on the river Somme, on both banks, as Amiens, St. Quentin, Corbie, Abbeville, with all the county of Ponthieu on both sides of the river Somme, Doullens, St. Riquier, Crêvecœur, Arleux, Montreuil, le Crotoy, Mortagne, with their appurtenances, and all others which may belong to us by reason of our crown from the river Somme in the direction of Artois,

[1] King John had united Normandy to the crown of France in 1361.

Flanders and Hainault, whether of our realm or of the Empire, which possessions our said uncle of Burgundy lately held and possessed under the said treaty of Arras and before the repurchase effected by us . . . which conveyance we have made and make with power of repurchase for 200,000 golden crowns ; which repurchase we and our successors shall not have power to make from our said brother and cousin during his lifetime ; but we and our successors may only make this repurchase from our said brother and cousin's heirs, being his descendants in direct line, . . . by paying the said sum of 200,000 crowns in one payment. . . . And further we promise and grant to our said brother and cousin that we will cause to be surrendered and given to him fully and freely and . . . we do now surrender and give to him the castles, towns, *châtellenies* and *prévôtés* of Péronne, Montdidier and Roye . . . free of all pledges and rights of repurchase. . . . And also, as a perpetual heritage, the county of Guines.[1]

(*b*)

SOURCE—Text in Lenglet, Vol. II, pp. 521–527. Old French.

Charles, son and brother of kings of France, Duke of Normandy ; Francis, Duke of Brittany ; John, Duke of Calabria and Lorraine ; Charles of Burgundy, Count of Charolais ; John, Duke of Bourbonnais and Auvergne ; James, Duke of Nemours, Count of la Marche ; John, Count of Armagnac ; Louis of Luxemburg, Count of St. Pol ; Charles, Count of Albret ; and John, Count of Dunois, to all who shall see these present letters, greeting : . . . Whereas my lord the Duke of Normandy, sometime Duke of Berry, and other lords of the blood, united with him, have represented to the king that they were united and assembled to come before him and to lay before him remonstrances and requests concerning the conduct and order of justice and the public weal of the kingdom ; and

[1] Louis also promised to respect the Burgundian possession of the county of Boulogne and to indemnify those who had claims on the county.

they have been unable to accomplish this intention because of threats communicated to them; and therefore for the security of their persons they have armed themselves and assembled troops, whereupon followed certain divisions and violence; . . . to promote good peace, love and union between the king and the said lords, for the better attention to matters necessary for the well-being and interest of the public affairs of the kingdom, the matters which follow have been treated and provided:

1. That all manner of wars and violence between the king and the said lords, their men, vassals and subjects, their adherents, allies, friends, and well-wishers, of whatever estate or condition, in whatever districts, lands or lordships, within the realm or without, on account of the said divisions or differences, shall henceforth cease on both sides; and the king and the said lords shall live in good peace, love and tranquillity, and shall withdraw their troops to their own territories without delay, as rapidly as possible.

3. That the said lords shall not, on account of the said past events or otherwise, either of themselves or through others, prosecute war against, or cause damage to, the king; not promote such war or damage by means of other lords or communities; nor give them aid or succour in any way, on account of the said past or any other events; but will serve and obey the king as they are obliged to do.

4. Also that the king will not, either of himself or through others, on account of the said past events or otherwise, prosecute war against, or cause damage to, the said lords or to their adherents, subjects, servitors or allies; nor promote such war or damage by means of other lords or communities. . . .

9. The king will not constrain the said lords to come to him and they will not be obliged to come in person to him; the lords will not, however, on that account be exempt from the services which they owe to the king by reason of their fealty, when need shall arise, for the defence and evident interest of the realm.

11. If the said lords, or their adherents and servitors, be involved in any cause or alleged crime, the king will not proceed against them by force, capture, arrest, or detention of their persons, or otherwise, except after good and mature deliberation by the council, and for good and sufficient reason, and after enquiry, and in legal form, and without detriment to the rights, dignities and prerogatives of the said lords and of their persons: and similarly the said lords and their officers will not proceed against the servitors and adherents of the king for any cause or alleged crime by force, capture, arrest, or detention of their persons, or otherwise, except after good and mature deliberation, and as has been provided above on the part of the king.

12. To examine the complaints and grievances, laid before the king by the said lords and others of his subjects of various estates, dealing with disorders and mischiefs said to affect the condition of the church and of justice, and with burdens, exactions and undue vexations, to the great charge, oppression and damage of the people and the public weal of the realm, it has been treated and provided that the king shall appoint thirty-six notable men of his realm—and these he has appointed—as follows, twelve prelates and notable churchmen, twelve notable knights and squires, and twelve notable councillors and lawyers; to whom the king shall give, and has given, full power and commission to assemble in the town of ,[1] to enquire into the said mischiefs and disorders and other matters touching the public and universal weal of the realm . . . to deliberate and to draw up provisions and remedies for the welfare of the king, the said lords, their subjects and the public interest of the realm. . . .

13. The king wills and ordains that the decisions and conclusions, in the manner in which they shall have been made, drawn up and concluded by the said thirty-six persons, or the greater part of them, whether in the form of ordinances or perpetual edicts, declarations or otherwise,

[1] The space is left blank.

shall have their full and entire effect. . . . And within fifteen days of their presentation to the king, he will authorize and approve them . . . and issue them in letters patent, which letters shall be published and registered in the court of Parlement, in the *chambre des comptes* and the royal *bailliages* and *seneschaussées*. . . . And similarly the said lords will be bound to observe and obey the said decisions and conclusions and to have them observed by their officers. . . .

21. If any of the said lords act or desire to act against the king contrary to these treaties and agreements, the others shall be bound to serve and aid the king against him or them, who shall so act or wish to act, without giving them any aid or support.

22. If the king shall make or desire to make any attack on the said lords or any of them, contrary to these treaties and agreements, the lords can aid and succour each other, without anything being imputed to, or demanded of, them. . . .

Given at Saint Maur des Fossez, the 29th day of October, 1465.

82. A LETTER OF LOUIS XI ON THE RECOVERY OF NORMANDY, JANUARY 5, 1466

Louis XI conducted a diligent correspondence with the municipal councils of the French towns, amongst whom he found valuable support against the feudal nobility. In this letter he informs the town of Lyon of his resumption of Normandy and attempts entirely to justify his action. The reoccupation of Normandy by the royal troops was carried out without difficulty during December, 1465, and January, 1466. Louis summoned the States General to Tours to approve his action in 1468, and the assembly unanimously declared that Charles of France should be content with a county worth 12,000 livres a year.

SOURCE—Louis XI, Vol. III, letter 227, p. 15. Old French.

FROM the King.

Well-beloved, you know of the divisions and differences which have recently arisen in our kingdom. . . . Every day we were warned from several sources that we were in danger, if we did not consent to transfer our land and duchy of Normandy to our brother, Charles. . . .

We were made to consent, against our will, pleasure and desire, to transfer to our said brother the said duchy. Otherwise we would never have consented to this and granted it; first, because of the prohibitions, in the ordinances and constitutions of the Kings of France, our predecessors, against alienating or separating the said duchy of Normandy from the crown of France, because of the ills and troubles that might thereby ensue for this kingdom, as in the past; further, it had never been given to a brother of the king . . . , because the duchy of Normandy is of very great value. . . . At our consecration we swore to guard and maintain the rights of the crown of France; we are expressly bound by our solemn oath; and, however much our brother has occupied the said duchy, we have always made a point of retaining the lawful possession of it, in order to recover it when it should please God that that should be possible; and therefore, before the said transfer, we made a special protest to that effect. . . . We have been counselled, after long deliberation by several lords of our blood and other notables, to come and to enter the said land of Normandy, to occupy this duchy and land, to place it in our possession, to hold it united to the crown, never to be separated therefrom. Wherefore we are come into the said land of Normandy; for the most part we have found there complete obedience; we have been received by the inhabitants as natural sovereign and lawful lord. . . . But it may happen that, on our entry into this land, many persons, being ignorant of the aforesaid matters, may be astonished; wherefore we have decided to write to you and make known to you, as well as to the other notable towns of our realm, the causes of our coming into Normandy . . . that, in these matters which so profoundly affect us and the rights of our crown, you shall endeavour yourselves to serve us as good and loyal subjects should act towards their sovereign lord; for we have placed our confidence in you. As for our said brother, we are determined, if he bears himself towards us as he should, to grant him a large, fair and notable appanage,

as great as ever was given to an only brother of the king. . . .

Given at Louviers, January 5.

83. A TREATY BETWEEN LOUIS XI AND THE SWISS, OCTOBER 26, 1474

After Sigismund of Tirol had renounced all his claims in the territories of the Swiss confederates, the latter supported him in the invasion of Alsace. They therefore had good reason to anticipate the wrath of Charles the Bold, and accordingly entered into the following treaty with Louis XI. The document illustrates the character of the Swiss as, so to speak, a trade union of soldiers; as well as Louis's methods of waging war by subsidies.

SOURCE—Text in E.A., Vol. II, p. 917.

WE, the burgermeisters, magistrates, bailiffs, councillors and communities of the towns and cantons of Zürich, Bern, Luzern, Uri, Schwyz, Unterwalden, Zug and Glarus, of the great alliance in Upper Germany, and we, the magistrates and councillors of the communities of Freiburg and Solothurn, declare to all who shall see this letter: Whereas there has been and still is to this day true love and affection and a lasting concord between the most Christian and serene lord, lord Louis, King of France, and ourselves, we have determined to establish and amplify the concord and mutual friendship . . . , as follows:

First that in each and every war of ours, especially against the Duke of Burgundy, and all others, the King shall afford us help, support and protection at his own expense.

Further, while he lives, he will annually cause 20,000 francs to be delivered and paid to us in his town of Lyon, as evidence of his goodwill; 5,000 every quarter, to be divided equally amongst us, the said lands.

And if the King, in his undertakings and wars, needs our help and sends us a demand therefor, we will give it to him, with the number of troops which is befitting and possible for us, if and in so far as we are not occupied with a war of our own, and at his expense. And the King shall pay every soldier $4\frac{1}{2}$ florins a month, the year being

reckoned at 12 months. And when he shall see fit to demand such help, the King shall send a month's pay for every soldier in advance to one of the towns of Zürich, Bern or Luzern and deliver the pay for two more months in the town of Geneva or some other suitable place, acceptable to us. And the three months shall begin to run from the time that our men shall have left their houses; and they shall have all the immunities and privileges which the King's other soldiers enjoy and possess.

And if at any time, in our wars against the Duke of Burgundy, we demand the King's help and he cannot support us because of his other wars, then, that we may wage the war the better, shall the King have 20,000 Rhenish florins paid to us every quarter in his town of Lyon, over and above the aforementioned sum of francs, so long as we effectively continue the war. . . .

And in all things we except our all-highest lord, the Pope, the holy Roman Empire, and all those, with whom we have hitherto concluded alliances, unions, understandings, or leagues and ratified them with document and seal. The same applies to the King, except in the case of the Duke of Burgundy, against whom the King and we will proceed as is provided above. . . .

84. THE TREATY OF ARRAS, DECEMBER 23, 1482

This treaty is contained in a very long document, dealing with a large number of points. The details of the administrative and financial settlement are omitted below. Two points call for notice. In the treaty there is no mention of the duchy of Burgundy. Louis XI retained it, but the silence of the treaty left the house of Habsburg with a possible claim to it.

Louis's contention that this treaty did not affect the English was untrue. Edward IV saw that the marriage arranged at Picquigny in 1475 was cancelled by this treaty. He made preparations for the renewal of the French War, but died on April 9, 1483.

SOURCE—Text in Lenglet, Vol. IV, pp. 95–116. Old French.

LOUIS, by the grace of God King of France: We make known to all, present and future, that to end the quarrels,

disputes and war between us and our dear and well-beloved cousin Duke Maximilian of Austria, our dear and well-beloved cousins, his children, Duke Philip and the Lady Margaret of Austria, their lands, lordships and subjects, several exchanges of views, discussions and meetings have at various times been held between our respective officers, ambassadors and plenipotentiaries ; . . . and finally in the town of Franchise, *alias* Arras,[1] our said respective ambassadors have agreed upon and concluded a number of points and articles, upon which a final peace has been made, concluded, sworn and published. . . .

For the greater assurance of the said peace a treaty and alliance of marriage is made, promised, agreed and accorded between my lord the Dauphin, only son of the King, heir apparent of the crown, and the said Lady Margaret of Austria, only daughter of the said lord Duke and of the late Lady Mary of Burgundy,[2] only daughter of the late lord Duke Charles, whom God assoil ; and the said marriage will be solemnized and consummated when the said lady is come to the age required by law.

As soon as the peace is published and the . . . letters and ratifications delivered to the ambassadors of the said duke and of the estates of his said lands, in the town of Lille or of Douai, the said lady shall immediately be brought to this town of Franchise, *alias* Arras, and placed and left in the hands of my lord of Beaujeu, or some other prince of the blood commissioned by the king ; and the king shall provide for her guardianship and maintenance, as for his eldest daughter, espoused to my lord the Dauphin.

In consideration of this marriage the said lord Duke of Austria and the estates of his said lands have consented and agreed, both in their own names and in that of the

[1] In 1479 Louis had ordered the fortifications of Arras to be destroyed, the inhabitants expelled, and even the name of the town to be changed to Franchise. His attempt to repeople the town with contingents from other towns was a failure and he eventually allowed its inhabitants to return to their homes, though the weaving industry of the town was ruined.

[2] She had died on March 27, 1482.

said Duke Philip, appearing in his stead because of his minority, that the counties of Artois and Burgundy and the lands and lordships of Mâcon, Auxerre, Salins, Bar-sur-Seine and Noyers shall be the dowry and marriage portion for the said lady and the said lord Dauphin, to be enjoyed as a permanent heritage by them and their heirs, male and female, who shall issue from the said marriage; and, in default of such heirs, these lands shall return to the said Duke Philip or his heirs. . . .

. . . the said land and county of Artois (except the town, castle and *bailliage* of St. Omer, referred to later[1]) shall be ruled and governed according to their accustomed rights, customs and privileges, as concerns both the communities of the good towns and the open country, under the hand and name of the said lord Dauphin. . . .

The same shall apply to the county of Burgundy and the other lands and lordships of the said lady's dowry.

[Provisions follow by which Louis XI and the Dauphin promise to take over the financial obligations of the previous rulers of the territories in question.]

The intention of the said lord Duke and of the said estates is that the dowry granted to the said lady is on condition and in view of her marriage with the said lord Dauphin, so that, if by death or otherwise it happens that the said marriage does not take place, the said dowry shall be held not to have been granted and the said counties and lordships shall be delivered and restored to the said lord Duke, if his said children be still under age; and, if his children be of age, to the said lord Duke Philip as principal heir of the said lady his mother, saving in that case to the lady his sister her right and natural portion as she should have according to the laws and customs of the said lands and lordships. . . .

Under cover of this treaty of marriage neither the king

[1] The inhabitants of St. Omer were required to take special oaths not to allow either Louis XI or Maximilian to acquire any control over the town, which they were to preserve for the future married couple.

nor the said lord Dauphin, during the minority of the said Duke Philip, will claim to have the government of the said lands of Brabant, Flanders or other appurtenances of the said duke, but will leave them as they are.

The said duke and estates recognize the king's sovereignty and appellate jurisdiction in the county of Flanders, as it has been in time past, and promise that the said Duke Philip, when of age, will do homage. . . .

In this treaty of peace is included the person of the lady Margaret, Duchesss of Burgundy, widow of the late lord Duke Charles, and to her shall be given the full enjoyment of the estates of Chaussins and la Perriere.[1] . . .

. . . the king is pleased to consent and accord that the towns of Franchise, *alias* Arras, Aire, Lens, Bapaume, Bethune . . . shall be held free and quit of the ordinary aid of Artois for the next twelve years, and that no other aid or extraordinary *taille* be levied during that time, and similarly with regard to all the arrears of the said ordinary aid for the past ; so that the inhabitants of the said towns and *bailliages* (which are now for the most part uninhabited, but will, by God's favour, be repeopled now that peace is made) cannot be charged, but shall be held quit and discharged. . . .

Concerning the said ambassadors' representations to the king's officers that he would be pleased to include in this treaty of peace the king of England and the duke of Brittany ; the reply is that the English are in a state of truce with the king and that this treaty in no way affects them, and that the king has no war with the duke of Brittany but a permanent and sworn peace between himself and the duke, which obligation the king for his part will respect.

[1] In the Free County and the Duchy of Burgundy respectively.

VIII

THE CHURCH IN THE FOURTEENTH AND FIFTEENTH CENTURIES

85. FROM DANTE'S *DE MONARCHIA*, *c.* 1309 ?

Differing views have been held as to the date of Dante's authorship of the De Monarchia. *It has been attributed to Dante's early life, before his exile from Florence. Also to the last years of his life—he died in* 1321. *But Boccaccio, in his* Life of Dante, *definitely says that Dante wrote it at the time of the Emperor Henry VII's expedition to Italy. It seems probable that Boccaccio was right; because, apart from other reasons, the Emperor's coming to Italy aroused almost Messianic hopes in Dante, who looked to Henry to restore the Florentine exiles to their homes and to end the anarchy of Italy. See Dante's* Epistles, *Nos. v, vi and vii.*

SOURCE—Dante. [A translation of the *De Monarchia*, and of the *Epistles*, is to be found in *The Latin Works of Dante* (Temple Classics), Dent, 1904.]

Book I, chapter 2. First then we must see what it is that is called temporal Monarchy, both in type, so to speak, and in intention.[1] The temporal Monarchy then, which they call the Empire, is an unique Principate over all persons in time.[2] . . . And concerning it three main questions call for investigation. First comes the question whether it is necessary for the welfare of the world. Secondly whether the Roman people[3] has rightfully assumed the function of Monarchy. And thirdly whether the authority of the Monarchy is derived immediately from God or from another minister or vicar of God.

I, chapter 4. [Dante's argument for a supreme Monarchy] . . . it is clear that it is in the quiet and tranquility

[1] *i.e.*, 'as it appears in the world and as God intended it to be' or 'in fact and in theory'.

[2] *i.e.*, 'on earth'.

[3] By 'the Roman people' we may conjecture that Dante meant the Latin world and especially the most Latin part of it, the Italians.

of peace that the human race devotes itself most freely and easily to the activities proper to it . . .

Chapter 10. Wherever a dispute can arise, there judgement is needed. . . . Between any two princes, of whom neither is in any way subject to the other, a dispute may arise, whether by their fault or by that of their subjects, as is obvious. Between such, then, judgement is necessary. And since the one cannot be judge in the affairs of the other . . . (for a peer does not bear rule over his peer), a third party of ampler jurisdiction is needed, who shall lawfully have princely authority over both. And this person will either be the Monarch or not. If he is, the question is closed. If not, he again will have an equal not subject to his jurisdiction; and again a third party will be needed. And so the process will go on to infinity, which is impossible; or it will lead to the first and highest judge, by whose decision all disputes may be settled, whether mediately or immediately; and that man will be the Monarch or Emperor. The Monarchy, therefore, is necessary for the world.

II, chapter 12. [Dante argues from the efficiency and success of the ancient Romans, with whose polity he identifies the Empire of his day; and then proceeds as follows.] Whoever of his own will carries out an edict, argues by so doing that it is just. . . . Now Christ, as Luke, His scribe, testifies, willed to be born of a Virgin Mother under the edict of the Roman authority, so that the Son of God, made Man, should as man be enrolled in that unique census of the human race.[1] And this was carrying out the edict. . . . By His act, therefore, Christ assured us of the justice of the edict of Augustus, who exercised the authority of the Romans.

Chapter 13. [Dante ends book II.] O blessed people! Thou glorious Ausonia! Would that the enfeebler of thine empire had ne'er been born, or that his pious purpose had ne'er misled him.[2]

[1] Luke, ii. 1.

[2] The reference is to Constantine and his supposed Donation.

III, chapter 1. . . . The present question . . . is concerned with two great lights; namely the Roman Pontiff and the Roman Prince; and the problem is whether the authority of the Roman Monarch, who is by right Monarch of the world, . . . is derived immediately from God or from some vicar or minister of God, I mean the successor of Peter, who indeed bears the keys of the kingdom of heaven.

Chapter 6. [One of Dante's replies to Papalist arguments drawn from the Bible.[1]] From the text of the first book of Kings they adduce the elevation and deposition of Saul: and they say that Saul, an enthroned king, was deposed by Samuel acting on behalf of and by order of God. And they argue that as that vicar of God had authority to give and to withdraw temporal rule and to transfer it to another; so now the vicar of God, the bishop of the universal Church, has authority to give and to withdraw and even to transfer the sceptre of temporal rule. . . . To which the reply . . . is that Samuel did this not as vicar, but as a special legate *ad hoc*, or messenger, bearing an express command of the Lord. . . . A vicar is one who is entrusted with jurisdiction according to law or to his discretion; and within the limits of his jurisdiction . . . he can act in a matter of which his lord knows nothing. But a messenger cannot, as messenger, do this; but as the hammer works only by the strength of the smith, so does the messenger only by the will of him who sends him.

Chapter 10. [Dante proceeds to answer Papalist arguments drawn from imperial history.] Further some say that the Emperor Constantine, when healed of leprosy by the prayers of Silvester, then supreme Pontiff, bestowed

[1] Dante also answers the Papalist arguments that God's creation of the sun and moon is a type of the creation of the (greater) Papacy and the (lesser) Empire (chap. 4); that the power of binding and loosing granted to St. Peter (and his successors) applies to temporal as well as spiritual matters (chap. 8); that the two swords, mentioned in Luke xxii., 38, symbolize the spiritual and temporal powers, both entrusted to St. Peter and his successors (chap. 9). Cf. No. 55, pp. 116, 117.

upon the Church the seat of empire, namely Rome, with many other dignities of the Empire. From which they argue that thenceforth no one can assume those dignities, unless he receive them from the Church, whose they say that these are. . . . Every jurisdiction is prior to its judge; for the judge is appointed to the jurisdiction, and not *vice versa*. But the Empire is a jurisdiction embracing all temporal jurisdiction in its sphere; therefore it is prior to its judge, who is the Emperor, since the Emperor is appointed to it, and not *vice versa*. Whence it is clear that the Emperor cannot, as Emperor, change it, since from it he receives what he is. . . .

[After arguing from Matthew x. 9, 10, that the clergy were not fit recipients of worldly wealth, Dante grants that Constantine might have conferred a subordinate jurisdiction on the Pope.][1] But the Emperor was able to place a patrimony and other things in the guardianship of the Church; the superior dominion remaining ever unaffected, since its unity does not allow of division. And the vicar of God could receive these things, not as the possessor, but as the dispenser of the fruits on behalf of the Church for Christ's poor.

Chapter 11. They also say that Pope Hadrian called Charles the Great to the aid of himself and the Church, because of the wrongs done by the Lombards in the time of their king, Desiderius, and that Charles received the dignity of the Empire from him[2]; although Michael was Emperor at Constantinople.[3] Wherefore they say that all who have been Emperors of the Romans after him are advocates of the Church and ought to be appointed by the Church. . . . To rebut this, I say that their argument proves nothing; for usurpation of a right

[1] Observe that Dante apparently accepted the genuineness of the Donation of Constantine.

[2] Actually from Pope Leo III, not Hadrian I.

[3] Constantine V was Emperor when Hadrian summoned Charles to Italy (774); and Irene was ruling in place of her deposed son, Constantine VI, when Leo crowned Charles.

does not create a right. Otherwise the authority of the Church could in the same way be proved to be derived from the Emperor ; since the Emperor Otto restored Pope Leo, and deposed Benedict and carried him into exile in Saxony.

Chapter 16. Providence has set before man two ends at which to aim ; namely the blessedness of this life, which consists in the exercise of his own ability and is symbolized by the terrestrial Paradise ; and the blessedness of the eternal life, which consists in the enjoyment of the divine aspect. . . . And to these blessings, as to different ends, he must come by different means. For to the first we come by the teachings of philosophy, provided that we follow them and act according to the moral and intellectual virtues. To the second by spiritual teachings, which transcend human reason, provided that we follow them and act according to the theological virtues, Faith, Hope and Love. . . . Wherefore man had need of twofold direction, in view of his twofold end ; namely of the supreme Pontiff, who should lead the human race, in accordance with revelation, to eternal life ; and of the Emperor, who should guide the human race, according to the teachings of philosophy, to temporal happiness.

86. CLEMENT V'S BULL, *VOX IN EXCELSO*, MARCH 22, 1312, SUPPRESSING THE TEMPLARS

After the trial and condemnation of individual Templars, the fate of the order itself remained to be decided at the Council of Vienne in October, 1311. *The Pope asked if the order's defence should be heard. The council replied affirmatively. But King Philip insisted on the suppression of the order. The Pope induced him to agree to a compromise—the order should be suppressed by papal provision, but its property assigned to another order. The dignitaries of the Temple were later tried by a papal Commission and sentenced to imprisonment. But the King's Council intervened and had them burned. Throughout the Papacy yielded feebly to the royal government.*

SOURCE—Extract in Mirbt, p. 212 (No. 375).

. . . Considering, therefore, the ill-fame, the suspicion, the vigorous insinuations and other aforesaid matters

which they bring against the said order [*i.e.* of the Temple] ; as also the secret and clandestine reception of the brothers of the order ; and the dissimilarity of many of its brothers in behaviour, life and morals from the rest of Christ's faithful ; and especially that, when receiving any as brothers of their order, they forced the newly received at their reception to make their profession and to swear neither to reveal their mode of reception to anyone nor to leave the order ; . . . Considering further that from the aforesaid matters there has arisen against the said order a grave scandal, which it would seem impossible to allay as long as the order exists ; as also the dangers to the faith and to souls ; and the many horrible deeds of most of the brethren of the said order . . . remembering also that, for reasons incomparably less weighty than the above, even without any fault of the brethren, the Roman Church has from time to time ordered the suppression of other religious orders : We, with sadness and bitterness of heart, not by way of a judicial sentence, but of a provision or apostolic ordinance, do abolish the said order of the Temple, its constitution, habit and name, by an irrefragible and ever-valid decree, and do subject it to a perpetual prohibition, with the approval of the sacred council ; strictly forbidding anyone to presume in future to enter the said order or to adopt or wear its habit or to act as a Templar. And if anyone shall do to the contrary, he shall *ipso facto* incur sentence of excommunication. Further we reserve the persons and goods [of the order] for provision by us and the apostolic see and for the disposition which, with the help of divine grace, we propose to make, to the honour of God and for the exaltation of the Christian faith and the prosperity of the holy land, before the present council is ended. . . .

Given at Vienne, March 22, 1312, the seventh year of our pontificate.

87. BERNARD GUI'S DESCRIPTION OF THE ALBIGENSES, *c.* 1320

Bernard Gui was born about 1262. *He entered the Dominican Order in* 1280. *He discharged the duties of inquisitor in Toulouse from* 1307 *till* 1324. *He wrote his* Practica, *or handbook for the guidance of inquisitors, during his period of office. During those seventeen years he condemned* 930 *persons, of whom* 89 *were already dead,* 40 *had escaped,* 307 *were sentenced to prison* (119 *were later released from prison*), 141 *ordered to go on pilgrimage,* 143 *to wear the sign of the cross,* 139 *were ejected from their towns,* 29 *subjected to minor penalties, and* 42 *were 'abandoned to the secular arm'. (See E. Vacandard,* The Inquisition, *trans. by B. L. Conway, p.* 270. 1908.)

SOURCE—*Practica Inquisitionis heretice pravitatis, Pars* V, c. 1, § 2. Text in Gui, Vol. I, pp. 18 *et seq.*

2. OF the life and rites of the Manicheans.—On the rites, life and behaviour of these heretics[1] I must touch shortly, that they may be the better recognized and apprehended. First, in no circumstances do they take an oath. Again, they keep three fasts a year, from St. Brice's day[2] to Christmas, from Quinquagesima to Easter, and from Pentecost to the feast of the apostles Peter and Paul. . . . And during all the rest of the year they take only bread and water on three days in each week, unless they are travelling or ill. They never eat meat or even touch it, nor cheese, nor eggs, nor anything that is born of the flesh by generation or the sexual act.[3] Again, they never kill any animal or bird; for they say and believe that the spirits, which escape from the bodies of men, who have not been received into their sect and order by the imposition of their hands according to their rite, dwell in brute beasts and birds and pass from one body to another. Again, they never have intercourse with a woman. . . . Again, they teach their believers[4] to pay them the reverence which they call *melioramentum*, but we call adoration, namely

[1] The writer is dealing here with *perfecti*, the heretics who practised the full catharist life. [2] November 13.

[3] Fish was allowed on the pretended ground that it was produced by water.

[4] *Credentes*, or *imperfecti*, who accepted the Albigensian teaching without practising the full rigour of the Albingensian life.

kneeling before the *perfecti* and bending low over a bench or down to the ground with clasped hands, bowing thrice, then rising, and saying each time '*Benedicite*' and ending, 'Good Christians, give us God's blessing and yours; pray the Lord for us that He guard us from an evil death, and bring us to a good end and into the hands of faithful Christians.' And the heretic replies, 'Receive it from God and us; God bless you, save your soul from an evil death and bring you to a good end.' By an evil death the heretics mean death in the faith of the Roman Church. By a good end and by the hands of faithful Christians they mean that at their end they will be received into the heretics' sect and order, according to their rite. . . . Again they teach their believers to make the promise, called the *covenensa*, that at their death they wish to be received into their sect and order. Thenceforward the heretics can receive such persons when ill, even if speechless and without memory.

[3 is a description of such a reception.]

4. Of their teaching. It would take too long to describe in detail the methods adopted by the Manichean heretics in preaching to and teaching their believers, but we must here give an outline of it.

First, they usually say of themselves that they are good Christians, who do not swear, nor lie, nor abuse anyone, nor kill men or animals or anything which has the breath of life; and that they hold the faith of the Lord Jesus Christ and His gospel, as Christ and His apostles taught it; and that they hold the place of the apostles; and that it is because of all this that they of the Roman Church, prelates, clergy, religious and especially inquisitors of heretics, persecute them and call them heretics; whereas they are good men and good Christians; as the Pharisees persecuted Christ and His apostles.

They constantly speak to the laity about the evil lives of the clergy and prelates of the Roman Church. They point out their pride, cupidity, avarice, impurity of life, and any other sins of which they know. And they invoke

the authority of the gospel and epistles, according to their interpretation and point of view, against the prelates, clergy and religious, whom they call Pharisees and false prophets who talk but do not act.

Then bit by bit they tear to pieces and abuse all the sacraments of the Church, especially that of the Eucharist, saying that the body of Christ is not there, for, if it were as large as a great mountain, Christians would already have eaten it all; that the host is made of straw, . . . that it is passed into the stomach and is emitted through the vilest place; which could not be, they say, if God were in it.

Again, of baptism [they say] that the water is material and corruptible, and therefore is the creation of the evil God and cannot sanctify the soul; but that the clergy from avarice sell that water. . . .

Again, they say that confession made to priests of the Roman Church is valueless; because, since they are sinners, they cannot bind and loose, and since they are unclean, they cannot cleanse another.[1]

Again, they say that the cross of Christ should not be adored or reverenced, because no one adores the gibbet on which his father or relative or friend was hanged. . . .

[5 contains a series of questions, based on the above, to be put to suspected Albigenses.]

88. AUGUSTINUS TRIUMPHUS OF ANCONA ON PAPAL POWER, *c.* 1320

Augustinus was born at Ancona, 1243. *He became an Augustinian friar and a teacher at the University of Paris. He was summoned as a theological expert to the Council of Lyons,* 1274, *by Gregory X. He later lived at Padua and at Naples, where he was counsellor to King Charles II. He was amongst the most prominent literary supporters of Boniface VIII and of the papal claims.*

SOURCE—Augustinus's *Summa de potestate papae.* Extract in Mirbt, p. 216 (No. 377).

QUESTIO 35. Of the election of the Emperor.

Art. 1. Whether the pope can of his own authority

[1] Cf. Matt. xviii. 18 and John xx. 23.

elect an emperor. The emperor is the minister of the pope for the very reason that he is the minister of God. For the apostle says in Romans xiii. that he beareth not the sword without cause, for he is the minister of God, a judge to execute wrath on him that doeth evil.[1]

For God has appointed the emperor as minister of the chief priest, since it is the emperor's duty to restore collapsing or shattered churches, to build up new ones, to honour God's priests and to protect them against heretics and rebels. And it is the right of a principal to select the agents and instruments of his purpose. Wherefore I hold that the pope, whose task it is to rule all Christians in the Church on earth in peace and to direct and guide them to the attainment of their supernatural end, can of his own authority elect an emperor, if there is just and reasonable cause for his so doing. . . . First it must be observed that the right of electing the emperor is not given to any persons for their own benefit, but for the benefit of the Church and the Christian people, whose head is the pope. Wherefore, when the pope thinks that it is to the benefit of the Church and for the peace of the Christian people, he can withdraw this right from such persons; as, for the same cause, he conferred it on them.

89. SOME OPINIONS OF MARSILIUS OF PADUA, 1324

Marsilius, a physician of Padua, co-operated with John of Jandun at Paris in writing the Defensor Pacis, *which was finished by June, 1324. Early in 1326, before their authorship was known, they fled in disguise to the court of the Emperor Ludwig IV. They were cited as heretics by Pope John XXII and condemned on October 23, 1327. After accompanying Ludwig IV on his coronation journey to Rome and taking a prominent part in the proceedings there, Marsilius seems to have spent the rest of his life in Bavaria. The third* Dictio, *or part, of the* Defensor Pacis *contains a striking summary of the authors' conclusions.*

SOURCE—Marsilius, *Dictio III*, c. 2, p. 493 *et seq.*[1]

1. FOR eternal blessedness it is necessary for all, who have been duly instructed, to believe in the truth of the One

[1] Romans xiii. 4.

Divine and Canonical Scripture, of any necessary corollary and of any interpretation thereof which is made by the common agreement of the faithful.

2. Only a general council of the faithful, or the greater multitude or part of it, ought to determine the meaning of doubtful passages of the Divine Law, especially in matters which are called articles of the Christian faith, and in others, belief in which is necessary to eternal salvation; and no other sectional body, nor a single person, of whatsoever condition, has authority to determine such matters.

3. It is not enjoined in the Gospel that anyone shall be compelled to obey the precepts of the Divine Law by any temporal penalty or punishment.

5. No mortal can dispense from the commands or prohibitions of God or of the Law of the Gospel. Only a general council or the Christian human legislator can forbid what is permitted, under penalty of guilt or punishment in this world or the next.

6. Only the whole body of citizens, or the greater part of them, is the human legislator.

7. Neither the decretals and decrees of the Roman nor of any other bishops or group of bishops, if promulgated without the consent of the human legislator, can be enforced on anyone by any temporal penalty or punishment.

8. Only the legislator, or someone acting by the legislator's authority, can dispense from human laws.

9. An elective monarchy or any other office derives its authority solely from election by the rightful elector and not from other confirmation or approval.[1]

14. No bishop or priest, as such, has any political power or coercive jurisdiction over any clerk or layman, even if he be a heretic.

16. No bishop or priest or body of clergy may excommunicate anyone without the authorization of the Christian legislator.

[1] Cf. No. 70, pp. 147–149.

17. All bishops are of equal authority, immediately under Christ; and it cannot be proved from the Divine Law that any of them is superior or inferior to others in spiritual or temporal matters.

19. Marriages which are forbidden by the Divine Law cannot be permitted by any mortal; those forbidden by human law come under the authority of the legislator alone or of the legislator's agent.

22. It is the exclusive right of the ruler, in accordance with the laws of the Christian people, to fix the number of churches or temples, and of the priests, deacons and other ministers, who shall minister in them.

23. Separable [1] ecclesiastical offices should be conferred, and can be similarly withdrawn, only by the authority of the Christian legislator. The same applies to benefices and endowments for pious purposes.

25. No bishop or group of bishops, as such, can grant a licence to teach or publicly to practice any art or profession. That appertains solely to the Christian legislator or to him who rules by the legislator's authority.

27. The legislator . . . may use ecclesiastical temporalities, in whole or in part, for common or public purposes or for defence, when the needs of the priests and other ministers of the Gospel, of divine worship and of the impotent poor, have been met.

41. According to the Divine Law the bishop of Rome or any other ecclesiastic or minister of a church should be preferred to a separable ecclesiastical office only by the Christian legislator, or by the legislator's vicegerent, or by a general council of Christians. They should be suspended or deprived, on account of misdemeanour, by the same authority.

[1] 'Separable' ecclesiastical offices are functions not essentially connected with spiritual character. Thus it is an 'inseparable' function of priests to say Mass and to administer sacraments. It is a 'separable' function to minister in a certain place or to certain people, or to administer ecclesiastical property or law.

90. ALEXANDER V'S CONFIRMATION OF THE COUNCIL OF PISA, JANUARY 22, 1410

On June 26, 1409, the twenty-four cardinals at Pisa elected the aged Cardinal of Milan, Peter Philargi, a learned and holy Franciscan, who, being a Greek by birth, was a stranger to the nationalist contentions which had embittered the schism. The new Pope did not take advantage of the liberation of Rome from the Neapolitan army, but, under the influence of the forcible Cardinal of Bologna, Cossa, established the papal court at Bologna. There he died on May 3, 1410. In the document, extracts from which are given below, he sketched the history of the schism and the efforts to heal it.

SOURCE—Text in Mansi, Vol. XXVII, pp. 83–91.

. . . The tragic and pestilent schism, which arose in the Roman Church as long ago as the year of the Lord's Incarnation 1378, in a short while brought great evils upon the Christian people. The whole fabric of the church was thereby divided into two parts, of which the late Urban VI obtained the obedience of one and the late Clement VII of the other, and both at the same time reigned as Roman pontiffs.

Each, with the help of adherents, asserted his claim to the See, Urban in Italy and the said Clement in Gaul. When both the claimants had been taken from this world, the late Boniface IX in place of Urban, and that son of iniquity, Peter de Luna, sometime Benedict XIII, in place of Clement ; and later on the death of the said Boniface, the late Innocent VII ; and after Innocent, who was soon removed, that son of perdition, Angelo Corario, formerly called Gregory XII, all succeeded to the respective obediences. . . .

And so the said cardinals, ambassadors, prelates and nearly all faithful Christians, who desired the unity of the church, despaired of attaining it by the action of Angelo. The cardinals, thinking it better to fall into the hands of men then to abandon the law of God and break their promises, oaths and vows, even if they suffered exile, poverty and all evils, assembled at Pisa. . . .

A general council was by them rightly summoned to Pisa. Its convocation was duly and solemnly published

to all Christian lands, kingdoms and provinces, and duly announced to the said Angelo and Peter and to their adherents, who claim to be cardinals. . . . The cardinals and prelates met many times; but Peter and Angelo did not appear in person or by proxy and were therefore rightly held to be contumacious. After a long time and many sessions . . . at last the general council . . . pronounced, decreed, defined and declared the said Angelo and Peter to have been and to be notorious schismatics and incorrigible and obstinate upholders . . . of the said schism, also notorious heretics . . . violators of their promises and oaths and notorious scandals to the church; to have rendered themselves unworthy of all honour and dignity, including that of Pope. . . . It declared the said Roman Church to be vacant and ordered an election of the supreme Roman pontiff by those to whom that right appertained. . . .

Therefore we, who were afterwards by the Divine mercy raised to the summit of the apostolate, by the apostolic authority, of our certain knowledge and with the counsel of our venerable brothers, the cardinals, do approve the aforesaid sentence and the acts, all and singular, of the council, for the removal of the schism. . . .

Given at Bologna, January 22, year 1 [of our pontificate]

91. THE DECREE *SACROSANCTA*, APRIL 6, 1415

The flight of John XXIII from Constance to Schaffhausen on March 20 left the cardinals who were attending the Council of Constance in a most difficult position. They attempted to gain time and to prevent the Council from replying to the Pope's thinly-disguised intention of defying conciliar authority by over-riding the authority of both Pope and cardinals. On March 23 the learned Gerson preached a sermon in which he declared that all, even the Pope, must obey a General Council, which could limit, though not abolish, the power of the Pope. The Council determined to proceed without the Pope and was evidently inclining towards revolutionary steps. Some of the cardinals joined John; others pretended to be ill. Only two, d'Ailly and Zabarella, attended the session on March 26. Zabarella agreed that the Council should not be dissolved till it had completed its work of healing the schism and reforming the Church. On March 29 Pope

John fled from Schaffhausen, after putting on record that all his promises made at Constance had been extorted from him by threats of violence. The Council's indignation rose high. At the session on March 30 Zabarella read the Council's decrees, but omitted some words, as will be seen below. This caused the assembly to break up in confusion. After negotiations with Zabarella, another session was held on April 6, when the decrees in their fullness were read and approved.

SOURCE—Text in Hardt, Vol. IV, p. 98. Quoted in Mirbt, p. 228 (No. 392).

THE decrees of the council concerning its authority and integrity, expurgated against the will of the nations by Cardinal Zabarella at the previous session, now in public promulgation restored, renewed, confirmed and recited in full by Andrew Lascharis, Bishop of Posen in Poland.

In the name of the Holy and Undivided Trinity, the Father, Son and Holy Ghost. Amen.

This sacred synod of Constance . . . declares first that itself, lawfully assembled in the Holy Spirit, forming a general council and representing the Catholic Church, has its power immediately from Christ; and every one, of whatever status and rank he may be, and even the Pope, is bound to obey it in matters pertaining to the faith, and to the abolition of the said schism,[1] and to the general reformation of the Church of God in head and members.[1] Further it declares that anyone, of whatever condition, status or rank, and even the Pope, who contumaciously shall refuse to obey the orders, decrees, ordinances or instructions, made or to be made by this sacred synod and by any other general council lawfully assembled, concerning or in any way relating to the aforesaid objects, shall, unless he comes to a right mind, be subjected to due penance and appropriately punished, recourse being had, if necessary, to the other resources of the law.

[Further clauses were added: 3 and 4 prohibited Pope John XXIII from summoning ecclesiastical officials to leave Constance or inflicting sentences on the members of the Council; and 5 declared that the Pope and all prelates enjoyed full liberty at the Council.]

[1] Zabarella had refused to read this clause, as being an illegitimate extension of the Council's power.

92. THE DECREE *FREQUENS*, OCTOBER 9, 1417

The demand of Sigismund and the Germans at Constance that a Pope should not be elected until the Council had laid down the lines of a reformation of the Church only stood a chance of success as long as it was supported by the English. But the English leader, Robert Hallam, Bishop of Salisbury, died on September 7, 1417; and at once, probably in obedience to instructions from Henry V, the English began to negotiate with the Cardinals, who were pressing for a Papal election. Thereupon the Germans, left alone, began to weaken. Sigismund, feeling uncertain of even German support, agreed to the election. But before the election was made three steps were taken to meet the wishes of the reforming party. On October 9 the decree given below was passed. Secondly, on October 11, through the mediation of Henry Beaufort, Bishop of Winchester, the Council appointed commissioners to draw up electoral regulations, acceptable both to the Cardinals and to the five nations. Thirdly, on October 30, it was provided that the new Pope and delegates of the Council should provide for the reform of eighteen specified evils in the life of the Church. On November 8 the Conclave opened, and on November 11 Oddo Colonna was elected Pope.

SOURCE—Text in Hardt, Vol. IV, p. 1435. Quoted in Mirbt, p. 228 (No. 393).

THE frequent holding of general councils is one of the chief means of cultivating the Lord's field. It serves to uproot the briars, thorns and thistles of heresies, errors and schisms, to correct excesses, to restore what is marred, and to cause the Lord's vine to bring forth fruit of the richest fertility. Neglect of councils spreads and fosters the said evils. This is clearly proved by the records of the past and consideration of the present. Wherefore, by this perpetual edict, we provide, decree and ordain that henceforth general councils shall be held thus: the first, five years after the conclusion of this present council; the second, seven years after the conclusion of its predecessor; and subsequently councils shall always be held every ten years in places which the Supreme Pontiff shall be bound to appoint and assign, with the approval and consent of the council, one month before the conclusion of the preceding council. In the absence of a Pope, the Council itself shall appoint the place of meeting. Thus, with a certain continuity, a council will always either be functioning or be awaited at the end of a definite period. This period the Supreme Pontiff,

with the counsel of his brothers, the Cardinals of the holy Roman Church, can shorten in view of emergencies, but must on no account extend. . . .

[The decree goes on to forbid the Pope to change the place of meeting of a council, except for good reason with the consent of two-thirds of the Cardinals and at least one year before the council should assemble. In case of another schism the subsequent council must meet automatically within a year and elect a true Pope. No prelate is to be translated or deposed by the Pope, except for good reasons, which must be certified by the Cardinals and communicated to the prelate concerned. The Pope is not to appropriate the property of deceased prelates.]

93. THE ARTICLES OF PRAGUE, AUGUST 11, 1433

The envoys of the Council of Basel negotiated with the Bohemian Diet and with some of the moderate Utraquist nobles in June and July, 1433. Eventually the Diet agreed to send ambassadors, bearing an exposition of the Articles of Prague and a statement that the Bohemians were willing to co-operate with the Council 'according to God's Word'. This embassy reached Basel on August 2.

SOURCE—Text in Mansi, Vol. XXIX, p. 385.

WE offer these articles to your paternities, that, for the preservation of the peace and unity desired of all men, you may give your consent to them as set forth in the form below, that they may be held, taught and irrevocably observed in the kingdom of Bohemia, the margraviate of Moravia and the lands adhering to them in this matter.

First, that the necessary and healthful communion of the most divine Eucharist be freely administered by the priesthood under both kinds, that is bread and wine, to all the faithful of Christ in the kingdom of Bohemia, the margraviate. . . .

Secondly, that all mortal sins, especially public ones, be restrained, repressed and abolished by those whose duty it is, reasonably and according to God's law.

Thirdly, that God's word be freely and faithfully preached by the Lord's priests and suitable Levites.

Fourthly, that it be not lawful for the clergy to have secular domination over temporal goods. . . .

94. EUGENIUS IV'S BULL *INTER CETERA DESIDERIA*, FEBRUARY 7, 1447

At the Imperial Diet of September, 1446, in Frankfurt, the envoys of the Pope and the German King succeeded in putting forward a compromise, on the basis of which the majority of the Electors were willing to abandon their neutrality between the Papacy and the Council of Basel and submit to Rome. Ambassadors accordingly went to Rome and negotiated with Eugenius IV. The dying Pope skilfully cut down the demands of the Germans. On all matters touching the authority of the Papacy he refused to commit himself, though he was prepared to recognize the validity of ecclesiastical appointments made under the authority of the Council. On February 7 the ambassadors were admitted to the Pope's chamber. The obedience of the King and two Electors was offered. The envoys of Saxony and the Palatinate said that their principals would act likewise. Eugenius handed over the document quoted below and another promising to reinstate the two rebellious Archbishops of Trier and Köln, when they too offered obedience. That night the city blazed with bonfires and the next day was a Roman holiday. On February 23 the Pope died.

SOURCE—Text in B.R., Vol. V, p. 92 *et seq.*

1. BECAUSE of the long continued dissension between us and those who remained at Basel under the name of a general council, some princes, both ecclesiastical and temporal, of the German nation adopted a neutrality or suspension of arms from March 17, 1438, till to-day, with the intention, they assert, of being able later unanimously to act together in obedience to, and reverence for, the apostolic See. Our beloved son in Christ, Frederick, illustrious King of the Romans ; and our venerable brother, Dietrich, Archbishop of Mainz, and our dear son, Frederick, Margrave of Brandenburg, both Electors of the holy Empire ; and our venerable brothers, Frederick, Archbishop of Salzburg, and Gerhard, Archbishop of Bremen ; and other prelates and princes of the said nation have by their envoys

offered due obedience to us and recognized us as sole vicar of Jesus Christ.

2. Whereas during the said neutrality many acts and deeds have been performed in that nation, which need confirmation, indulgence or dispensation under the apostolic authority, we, in answer to the prayers of the said king, archbishops, margrave and other prelates and princes, by our apostolic authority and of our certain knowledge do confirm all [such] elections, postulations,[1] collations, provisions, confirmations and dispositions, as also trials, sentences and other judicial acts. . . .

11. All persons, ecclesiastical and secular, holding benefices or offices in that nation, whether of royal, archiepiscopal, episcopal or other rank, who, after our dissolution or translation of the said council, adhered to, obeyed, or were incorporated in the assembly of Basel under the name of a general council, and who have now returned to our obedience, or shall return within six months of our declaration, or adhere to our declaration; by the said authority we absolve and free all such persons from all oaths, imputation of perjury and other censures and penalties. . . . Further we absolve all persons, holding benefices or offices in the said nation and coming under the terms of the declaration made, or to be made, by us, who, after the translation of the council, remained at Basel or adhered to and supported that assembly, or held office in it . . . from all sentences of excommunication, suspension, interdict. . . . Those also, who then, or by their provisions, or by their authority, received holy orders at that time, we dispense, so that they may discharge the functions of the orders which they have received. . . . Concerning the churches of Trier and Köln, about which there is a special clause in the petitions of the King, the Archbishop of Mainz and the margrave, we provide in other letters specially drawn up. . . .

[1] See p. 127, n.

95. PIUS II'S BULL *EXECRABILIS*, JANUARY 18, 1460

This bull may be considered the sole outcome of Pius II's Congress at Mantua, which was to have inaugurated a general crusade against the Turks. It was a final blow at that attempt to reform the Church by constitutional means and general consent, which is called the Conciliar Movement.

SOURCE—Text in B.R., Vol. V, p. 149. Quoted in Mirbt, p. 242 (No. 406).

AN execrable abuse, unheard of in former ages, has grown up in our time. Some persons, embued with the spirit of rebellion, not in order to obtain more equitable judgement but to escape the consequences of their misdeeds, presume to appeal to a future council from the Roman pontiff, the vicar of Jesus Christ, to whom in the person of blessed Peter it was said 'Feed My sheep' and 'Whatsoever thou shalt bind on earth shall be bound in heaven.' Anyone not wholly ignorant of the laws can see how contrary this is to the sacred canons and how injurious to Christendom. And who will not pronounce it ridiculous that appeal should be made to what does not exist and the time of whose future existence is unknown? § 1. Therefore . . . we condemn such appeals and denounce them as erroneous and detestable. . . . § 2. If anyone—of whatever estate, rank, order or condition, even if adorned with the imperial, the royal or the papal dignity—shall act contrariwise, he shall *ipso facto* incur sentence of execration, from which he cannot be absolved but by the Roman pontiff and when at the point of death.

APPENDIX

THE CONDITION OF ITALY ABOUT 1490

The following extract, describing the political condition of the Italian state system on the eve of the French invasion, is taken from Francesco Guicciardini's History of Italy, 1490–1532. *The author was in a position to write authoritatively on the history of Italy during that period. He was born of a distinguished Florentine family, in* 1482. *He became a Doctor of Civil Law in* 1505, *and soon after Professor of the Institutes at Florence. For some years he was a successful lawyer and lecturer on law. The Florentine Republic in* 1512 *employed him as ambassador to Ferdinand of Spain, at whose court he spent two years. The Medici Pope Leo X persuaded Guicciardini to enter the Papal service and in* 1518 *appointed him Governor of Modena and Reggio, and later of Parma. In* 1523 *he became President of the Romagna with absolute authority over that province. After the death of Clement VII, he retired to Florence and devoted himself to writing his famous history. He died in* 1540.

The history is so long, sometimes long-winded, that a well-known and malicious story tells of a convicted felon who was given his choice between three forms of punishment. He might either eat a peck of onions straight off or read Guicciardini's History *or go to the galleys. He chose the first alternative, but failed to perform it. Then he attempted the second, and likewise failed. Accordingly he had to pull an oar in the galleys.*

It will, I hope, be agreed that the short specimen of Guicciardini's writings given below lends no colour to that story, an invention doubtless of one of those enemies whom Guicciardini made for himself by his severe government of the Romagna. The spelling and punctuation are those of the translator, Goddard.

SOURCE—Guicciardini, Book I, pp. 1–10.

I PROPOSE to relate what past in our Memory in *Italy*, since the *French*, invited by our own Princes, came with powerful Armies and interrupted her Repose: A Subject, for its Greatness and Variety highly memorable, and full of melancholy Events; *Italy* for a long Series of Years having laboured under all such Calamities as the Almighty is wont, in his

Displeasure, to inflict on wretched Mortals for their Impieties and Wickedness. From the Knowledge of so many, so various, and so important Incidents, every one may draw Instructions of some sort or other, conducive both to his own and to the Public Good. By numberless Examples it will evidently appear, that human Affairs are as subject to Change and Fluctuation as the Waters of the Sea, agitated by the Winds: And also how pernicious, often to themselves, and ever to their People, are the precipitate Measures of our Rulers, when actuated only by the Allurement of some vain Project, or present Pleasure and Advantage. Such Princes never allow themselves Leisure to reflect on the Instability of Fortune; but, perverting the Use of that Power which was given them to do good, become the Authors of Disquiet and Confusion by their Misconduct and Ambition.

Before I proceed to give my Reader an Account of the Troubles in *Italy*, together with the Causes from whence so many Evils were derived, it will not be improper to observe, that our Calamities affected us with so much the greater Terror and Sensibility, as the Minds of Men were perfectly at Ease, and the Country at that Time in a State of profound Peace and Tranquillity. It is certain that, for above a thousand Years back, at which Period the *Roman* Empire, weaken'd by a Change of her antient Institutions, began to decline from that Pitch of Grandeur, to the attaining of which the most amazing Virtue and good Fortune had equally contributed, *Italy* had at no Time enjoy'd a State of such compleat Prosperity and Repose, as in the Year 1490, and some time before and after. The People also had taken Advantage of this Halcyon Season, and been busied in cultivating all their Lands, as well Mountains as Vallies; and being under no Foreign Influence, but governed by their own Princes, *Italy* not only abounded with Inhabitants and Riches, but grew renowned for the Grandeur and Magnificence of her Sovereigns, for the Splendour of many noble and beautiful Cities; for the Seat and Majesty of Religion, and for a Number of great Men of distinguished Abilities in the Administration of public Affairs, and of excellent Accomplishments in all the Sciences, and in every noble Art: She had also no small Share of Military Glory, according to the Knowledge and Practice of Arms in those Days.

An happy Concurrence of Causes had preserved her in

this flourishing Condition. Amongst the rest, common Fame ascribed no small Share to the Virtue and active Spirit of *Lorenzo de' Medici*: A Citizen of such distinguished Merit in the State of *Florence*, that the whole Affairs of that Republic were conducted as he thought proper to advise or direct. And it was indeed to the Happiness of her Situation, the Ingenuity of the People, and the flourishing State of the public Credit, and her Opulency, that this Commonwealth chiefly owed her Power and Influence; for the Extent of its Dominion was not great.

Lorenzo, by Marriage, had made a strict Alliance with Pope *Innocent* the Eighth; which gave him still greater Credit and Authority with the Princes of *Italy*. He knew how destructive it would prove, both to himself and the Republic of *Florence* if any of them should increase his Dominions at the Expence of his Neighbours; and was therefore ever watchful to prevent the most minute Cause of Strife or Misunderstanding among them, lest the Ballance of Power, which then subsisted in *Italy*, should suffer any Alteration.

Ferdinando of *Aragon*, King of *Naples*, was in the same Disposition: A very sagacious Prince, and highly esteem'd; tho' formerly he had often discovered an ambitious and turbulent Spirit. He was instigated at this very Time by *Alfonso*, Duke of *Calabria*, his eldest Son, to resent the Injury done to *Giovanni Galeazzo Sforza*, Duke of *Milan*, who had married *Alfonso's* Daughter. The Duke had been excluded from the Administration of all public Affairs by his Uncle *Lodovico Sforza*; who through the Weakness and dissolute Behaviour of *Bona*, this young Prince's Mother, had procured for himself the Tuition of him. Having enjoy'd the Regency Ten Years together, and, by little and little, rendered himself also Master of the Fortresses, Army, Treasure, and whatever supported the State; he at length refused, under Pretence of his Nephew's Want of Capacity, to resign his Office; continuing to govern, (tho' his Kinsman was above Twenty Years old) not as Guardian, or Regent, but with all the Formality and Actions of the Prince, tho' he did not assume the Ducal Title. *Ferdinando*, however, remained attentive to his first Object, which was the Preservation of the public Peace: And, therefore, would neither gratify his own warlike Disposition, nor the just Resentment of his Son, at the Hazard of so invaluable a Blessing. But he was the more cautious

of creating any Divisions in *Italy*, because he had perceived, in some late dangerous Commotions, that he was hated by his Subjects; particularly by a Party among his Barons, who were still attached to the old *French* Interest; and, as he apprehended, would, in case of any Rupture, invite them to invade his Dominions. To this Motive may be added, a Desire he had to counterballance the formidable Power of the *Venetians*, which at that Time alarmed all *Italy*; and he was sensible, that his Union with the other Powers, with the States especially of *Milan* and *Florence*, was requisite for that Purpose.

Lodovico Sforza, tho' of a turbulent and ambitious Temper, could not but be pleased with the same Measures. For the *Venetian* Power was as much dreaded by the Sovereigns of *Milan*, as by other Princes. Besides, it was much easier for him to preserve his usurped Authority in a Time of Peace and Tranquillity, than amidst the Confusion and Casualties of War. And tho' he was always apprehensive of *Ferdinando* and *Alfonso*, yet he could depend upon the peaceable Disposition of *Lorenzo de' Medici*, who was also jealous as well as himself, of the King of *Naples*. He was persuaded, moreover, that the Animosities which then subsisted between *Ferdinando* and the *Venetians*, rendered an Union between them impracticable: And being satisfy'd that he would find it dangerous to act without, and difficult to procure an Alliance, he thought himself secure from any Attempt that could be made against him from that Quarter.

There was then the same Inclination for Peace in *Ferdinando*, *Lodovico*, and *Lorenzo*; partly from the same, and partly from different Motives; So that a Confederacy many Years before contracted, in the Name of *Ferdinando*, King of *Naples*, *Giov. Galeazzo*, Duke of *Milan*, and the Republic of *Florence*, for the mutual Defence of each other's Dominions, was with Ease corroborated and confirmed. This League, of some Years standing, as I observed, but interrupted by various Accidents, was renewed for Twenty-five Years, in 1480, and acceded to by all the inferior Powers of *Italy*. The chief Design of the contracting Parties was to keep down the Power of the *Venetians*; who were without question superior to any of the Confederates separately, but not able to cope with them when united. Their Senate seemed to consider

themselves, and acted, as a Body, that had little or no Connection with the other People of *Italy*; widening every Breach, and cherishing and fomenting Discord amongst them, in hopes of attaining, by these Means, the Sovereignty of *Italy*. The whole Tenor of their Councils and Conduct manifested their Design: But it appeared most plainly, when, upon the Death of *Filippo Maria Visconti*, Duke of *Milan*, they attempted, under the plausible Pretence of preserving the Liberties of the *Milanese*, to make themselves Masters of that Dutchy: And in a more recent Instance, when with open Violence they endeavoured to seize the Dukedom of *Ferrara*. This Confederacy produced the intended Effect, so far as to restrain the Ambition of the *Venetians*, but it did not unite the Confederates in a sincere and solid Friendship among themselves. Their Envy and Emulation of each other made them watchful of every Motion, and jealous of every Measure, that they conceived might any way increase the Power or Credit of their Neighbours. This Precaution, however, did not make the Peace less secure: On the contrary, it created a most ardent Impatience in them all to quench immediately those Sparks which, if neglected, might break out into a general Conflagration. Such then was the State of Affairs; these were the Foundations for the Tranquility of *Italy*; so connected, and counterpoised, that there was not only no Appearance of a present Change, but the most discerning Person could not devise, by what Counsels, Accidents, or Powers, such a Peace could be disturbed.

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